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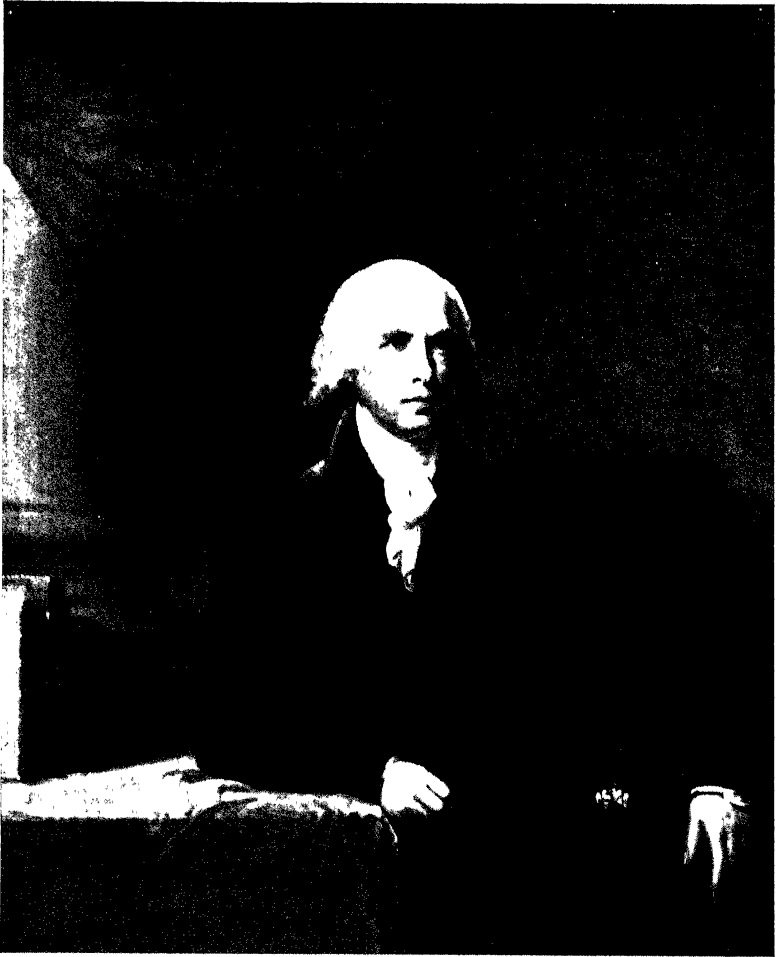
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# JAMES MADISON: BUILDER

*A New Estimate of a Memorable Career*

BY

ABBOT EMERSON SMITH

*Assistant Professor and Fellow  
in  
History at Bard College,  
Columbia University*

ILLUSTRATED



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## NOTE TO READER

The superior numbers throughout the text of this book refer to various authentic records and volumes from which these details were assembled. The items to which these numbers refer are listed in a separate chapter REFERENCES in back of book.



JAMES MADISON: BUILDER



## CHAPTER I

### *YOUTH—THE VIRGINIAN CONSTITUTION*

1751-1780

IN 1772 Virginia was a land of strong men. No others could expect to survive the perils of climate, Indians, strong drink, devastating fevers, and more devastating physicians. James Madison, aged twenty-one and just home from college, took stock of himself, of his small body, spindle shanks, poor health, and decided reasonably enough that he had not long to live. There was, he thought, little use in setting about any career which should require much effort and persistence. A few years, perhaps, and he would die.

But the years rolled along. Twenty of them passed, and he had managed not only to survive, but to fill his days with arduous labor. Forty passed; he was no healthier, still racked with bilious fevers, still weak, but just about to begin the most formidable task of all. Sixty were counted, and again he sat waiting to die, with crippling rheumatism added to his ills. His friends and associates were gone; he was the sole survivor of the Virginian Convention of 1776, of the Revolutionary Congress prior to the peace, of the Constitutional Convention of 1787. The world had changed, new and strange doctrines were heard in the land, a railroad had been built, and his farm would no longer pay for itself. Young John Quincy Adams had become a relic of the past, and had been obliged to begin a new career. Yet Madison lived for three more years. "Having outlived so many of my contemporaries," he wrote, "I ought not to forget that I may be thought to have outlived myself." And then he quietly died.

Madison was a stubborn man, but it was not sheer will-power that kept him alive for eighty-five years. It was rather a sort of inherent capacity for imperviousness to disaster. Small, precise, courteous, affable, neatly clothed in black, with powdered hair

and a pigtail, he infuriated opponents by his complacency. They could not seem to get under his skin. Not even the most outrageous fortune wounded him deeply; the British might drive him from Washington into the woods, burn his house, and destroy the capitol, yet still he remained serene. He was perplexed, troubled, and often annoyed, but he could not deeply suffer. His capacity for feeling was limited, and so, rather to his own surprise, he lived on, year after year.

Such characteristics made him respectable, but they kept him from being popular. Democracies will not follow a man merely because he is intelligent, and although many contemporaries had an almost superstitious notion of Madison's intelligence, they found nothing in him to shout about, or to die for. No one even invented any scandal about him. He was not a colorful figure. The exuberant fancies of Jefferson were tempered, refined, and sometimes quietly rebutted by Madison, who gained a great reputation for cogency and logic, but little or none for human feeling. He had Washington's solemnity without Washington's strength, and Hamilton's intelligence without the realistic grasp of fact which made the Secretary of the Treasury a genius. And so he was more popular than Hamilton, less revered than Washington, and never loved as was Jefferson. A New England politician compared him to a cardinal, and the French minister in 1794 called him the Robespierre of America.<sup>1</sup> Neither one intended to insult him, nor lacked discernment.

Few men have had a better opportunity than Madison to create their own legend. For almost twenty years after his retirement from the Presidency in 1817 he had nothing much to do but arrange his papers for the benefit of posterity. Long before he died it was apparent that the Constitution would last long enough to be more than a curiosity, and the country of Webster and Hayne longed for a glimpse of Madison's Journal of the Constitutional Convention, with whatever other lights he might have to throw on the controversy. Aspiring biographers wrote to him several times, and to one of these he replied in 1831 that since his life had been so much of a public one, "any review

of it must mainly consist, of the agency which was my lot in public transactions". Yet he thought that biographers generally wrote too much like historians, probably because such writing was easier, and "by omitting the private features of character, and anecdotes, which as condiments, always add flavour, and sometimes nutrition to the repast, have forfeited much of the due attraction". Accordingly he did his part in handing on what anecdotes of his friends he could remember, but he was not equally well served himself. Reputed to be a vivacious talker, a teller of ribald stories, and an excellent dinner companion generally, he has nevertheless survived only as the most solemn of public men. One does not expect a man of his time and type to reveal inmost feelings on paper, but Madison's letters rarely depart, even by accident, from the objectivity and calmness which were supposed to distinguish him. At least, there is no reason to believe that he destroyed any interesting personal documents of a nature likely to change the view of his character which men held while he was alive, and which his papers revealed when he was dead. They agree that he was honorable, scholarly, conscientious, cautious, and obstinate.

There had been Madisons in Virginia since the earliest years of the colony, but their history presents no instructive features. The grandfather of James, whose name was Ambrose, had possessed enough sense and fortune to acquire a large tract of land in Orange County, about thirty miles northeast of Charlottesville, and ten miles east of the Blue Ridge. Thus the family became identified with that section of Virginia known as the Piedmont, which stretched from the fall line of the rivers to the Blue Ridge. The inhabitants of this region were a little less wealthy and aristocratic than the old families of the Tidewater district, but rather more solid and conservative than the motley crowd of small farmers which began to settle beyond the Blue Ridge as the eighteenth century wore on. From the Piedmont came Jefferson and Marshall, and many others who had had time to overcome, but not quite to forget, the spirit of the pioneer.

The father of James Madison, who bore the same name,

seems to have been a solid, honest planter, with no particular social or intellectual embellishments, and also apparently lacking the grosser vices which sometimes characterized plantation owners. He was probably the richest man in the county. He served his time upon the bench of Justices and as vestryman of the parish, kept the poor in order, furnished some supplies to the army, and turned what surplus funds he had into Kentucky land speculation. He died in 1801, leaving among other things 108 slaves, twenty-six horses, twenty oxen, and 222 hogs.<sup>2</sup> Since this inventory did not include the small separate establishments of his three sons, it indicates that the family was distinctly prosperous, while the 1800 acres of cultivated land in the estate show that the prosperity was solidly based. Neither sons nor daughters ever knew hardship, but the younger James acquired a keen taste for farming, indulged it with intellectual fervor, and was esteemed by Jefferson as one of the most competent of Virginian planters.

Like the old English feudal estate, the plantation often produced men who knew how to govern. All planters could command, and the best of them knew how to do it gracefully. So did a good business man, for that matter, but the English estate and the Virginian plantation taught their ablest sons a kind of social responsibility best described as aristocratic. The aristocrat governed, not because of individual ability to do so, nor because the profit motive impelled him, but because he had inherited the job. Occasionally, by the grace of God, one would turn out to be a man of talent, and if such a man found his way from the plantation to the seat of political authority, the state was likely to be the better for it.

It would hardly be possible to overestimate the importance of the fact that Madison was born and bred a plantation owner. It made him, like Jefferson, naturally a conservative. In contrast there were men like Hamilton, whose blue blood might have made him an aristocrat, but whose fortune and environment put him with the radical bourgeoisie. Hamilton, for instance, expressed himself as unable to believe that men of ability would



serve in the Senate, when the government could offer them no more than three dollars a day. Such an attitude appeared indecent to men like Jefferson and Madison, who looked upon political life as the highest privilege and obligation of an able man. Yet some Virginian planters, like the enlightened despots of Europe, perceived that aristocratic rule was not wholly rational; that too much was apt to hang upon the mere accident of birth. Hence they tried to chip off, here and there, the rough edges of the old order, but no sooner did they begin the process than they found themselves involved in revolution, and put aside by men of business with new notions of government. Jeffersonian democracy was aristocracy, tempered by rationalistic and humanitarian ideas, fighting against radicalism.

The elder James Madison was an Anglican, as befitted his station in life, but unlike the average Virginian planter he appears to have had leanings toward Puritanism. The modest library which he left contained a good proportion of books on sin and regeneration, and the sons were brought up in a far more moralistic atmosphere than they might have been. But apart from these tendencies the intellectual atmosphere of home cannot have been very stimulating to the young Madison. His father owned copies of *Hudibras*, of Johnson's Dictionary, and of Paine's *Age of Reason*, but the remainder of his secular library consisted of such works as Sharp on Surgery, Floxer on Cold Bathing, and a treatise called "The powers of the Mothers imagination over Foetus". A cousin, also named James Madison, had been educated in England, and later rose to the dignity of President of William and Mary College, and Bishop in the Episcopal Church, but with this exception no one in the family had ever been in Europe, or given evidence of any but the most ordinary kind of mental endowments.

Eleanor Conway, Madison's mother, was reputed a pious and dutiful woman, but certainly her most remarkable achievement was that of living to the age of ninety-seven. Until her death in 1829 she maintained a separate domestic establishment in a suite of rooms at Montpelier, the Madison estate, and her lon-

geivity prevented Madison from entering into full legal possession of his paternal inheritance until he himself was seventy-eight years old. Since she bore no less than ten children, of whom seven lived to maturity, it may be that her son owed his own ability to survive his contemporaries to the tough constitutional fibre inherited from his mother. There is no evidence that she possessed any notable intellectual accomplishments, but it is perhaps worth mention that she, as well as her husband, was of purely English descent.

For the birth of her first child Eleanor Madison went to the home of her mother, at Port Conway, King George County, Virginia, and there James was born on March 16, 1751. Three weeks later he was christened, and soon after the family returned to Orange. In later life Madison was unable to recollect that anything of importance had happened to him while a boy, and neither history nor tradition has supplied the deficiency. At the age of twelve he was sent to a school kept by a Scot named Donald Robertson, where he studied Greek, Latin, French, Geography, English Literature, and Mathematics, and made the acquaintance of a younger lad who later became famous as John Taylor of Caroline. After about three years of this he returned home, and was tutored by the Reverend Thomas Martin, who lived with the Madison family while fulfilling the duties of parish parson. Madison remembered of these years only that he read the "Spectator", "which, from his own experience, he inferred to be peculiarly adapted to inculcate in youthful minds, just sentiments, an appetite for knowledge, and a taste for the improvement of the mind and manners".

The ordinary procedure for a promising young Virginian was to finish off his studies at William and Mary College. But that institution was not in a flourishing condition during the 1760's, nor did the sickly young Madison want to risk his health in the lowlands of Williamsburg, which were held to be especially dangerous for men coming from the hills. The Rev. Mr. Martin was a graduate of Nassau Hall, now Princeton, and under his influence Madison finally went there himself. He entered in the

summer of 1769, somewhat before the usual date for beginning the year's work, and spent his first few weeks in rereading Horace, and going over what he knew of prosody, by way of review.

Nassau Hall, in 1769, offered such peculiar advantages to a boy like Madison, that his choice of it might almost be called providential. The college had just imported from Scotland a new President, the famous Dr. Witherspoon, who was a great educator and a great man. He was then forty-six years of age, and had behind him a distinguished and tumultuous career in the Presbyterian Church, where his orthodoxy had been as doubtful as his talents in controversy were obvious. Madison's mind was one naturally fitted for intricacies, and he was singularly fortunate in being submitted to the discipline of this disputatious Scot. But Dr. Witherspoon was no mere theological splitter of hairs. He was a man of profound political and social convictions, and of wide experience, a radical who chafed under authority, but a solid and rigorous thinker. He introduced changes into the methods of study at Princeton. The course in mathematics was enlarged, metaphysics was made a subject for serious study, moral philosophy was extended to cover the principles of public law and politics, while history and the art of writing were added as embellishments upon more arduous labors.

Despite the cloistered nature of college life, Dr. Witherspoon seems also to have succeeded in what is now called keeping the students aware of the realities of life. Princeton was, in fact, a very hot-bed of sedition. No sooner had Madison arrived than he sent back to his father "two pamphlets entitled *Britannia's intercession for John Wilks &c*". When, in 1770, the merchants of New York broke their non-importation agreement and wrote to their colleagues of Philadelphia asking for concurrence, the students, dressed in their black gowns, solemnly burnt the letter in the college yard, and tolled the bell. Madison denounced the merchants as guilty of "base conduct", and rejoiced that all the students wore "American cloth". Thus Witherspoon, and Princeton generally, were Whiggish to the bone, and the natural

inclinations towards liberty of a man like Madison from the Piedmont were encouraged to greater obstinacy. Likewise his aptitude for politics was nourished. He was one of the founders of the American Whig Society, which debated behind closed doors the questions of the day, and was radical in tone. He studied history and political science with especial diligence. Scholarship in politics, as well as liberalism, Madison learned from Dr. Witherspoon.

There was no little theological and philosophical controversy at Princeton during those years. A disciple of Bishop Berkeley appeared in the Presbyterian camp, and caused much argument before he could be ousted. In the course of the process, Madison became sufficiently familiar with metaphysical jargon to write and reason about the problem of free will. He never retained much taste for systematic philosophy, but it is believed that he thought seriously for a while of entering the ministry. For about a year after taking his degree he remained at Princeton, and must have been one of the first "graduate students" in America. Since he studied Hebrew, and since he was in later years appealed to by Jefferson as an authority on the writings of the Church Fathers, he certainly had theological inclinations, while a commentary which he prepared on some sections of the New Testament indicates more than ordinary religious tastes. In fact he gave promise, for a time, of exhibiting to the world the rather odd spectacle of a wealthy, Anglican, Virginian planter, with Puritanical leanings, theological subtlety, and perhaps holy orders.

Of his personal life at Princeton little is known. He tried to compress the work of two years into one, and did so successfully, though undue conscientiousness in study further damaged his precarious health. Among the students were Aaron Burr, Henry Lee, Philip Freneau, Brockholst Livingston, who became a Justice of the Supreme Court, Gunning Bedford, who sat in the Constitutional Convention, and H. H. Brackenridge, a novelist of some fame. There is some evidence that Madison

chose his companions from among the more sober young men; his closest associates were probably William Bradford, who was studying divinity but became a lawyer, and S. S. Smith, a future college president, with whom he argued about free will. He was finicky about the way his shirts were ruffled, modest in his mode of life, but not unpopular. Dr. Witherspoon told Jefferson long afterwards that in the whole career of Madison at Princeton he had never known him to say or do an indiscreet thing.

Thanks to his extraordinary efforts, and to the no less remarkable discretion of his conduct, Madison took his degree in October, 1771, and after another winter of study returned to Orange. He was rather at a loose end. In a desultory fashion he read law, and also employed time in tutoring his younger brothers and sisters, but the future looked unpromising. Some day he would inherit an estate, of course, but he had neither the robust health nor the disposition for spending his leisure time in drinking, gambling, horse-racing, and the ordinary amusements of a planter. The obvious thing for him was to enter public life, after fortifying himself with legal learning; both his ambitions and his intellectual abilities seemed to point in that direction. Yet it seemed impossible. "I am too dull and infirm now," he wrote to Bradford, "to look out for any extraordinary things in this world, for I think my sensations for many months past have intimated to me not to expect a long or healthy life; though it may be better with me after some time, I hardly dare expect it, and therefore have little spirit and alacrity to set about anything that is difficult in acquiring and useless in possessing after one has exchanged time for eternity. But you have health, youth, fire, and genius, to bear you along through the high track of public life . . ." We have already noted how grievously Madison underestimated his powers of survival, but he was not wholly wrong about himself, even in this lugubrious passage. There was never in him that physical exuberance of "health, youth, fire, and genius" which gave leadership to strapping fellows like Jefferson, whose brains were in no way superior. Madison often

inspired confidence, but never aroused enthusiasm; he excelled as a critic, but failed as a leader. Probably much of this was due to his lack of physical vitality.

For almost the last time in his life Madison, in these years of his early twenties, committed his inmost thoughts to paper, and they were wonderfully solemn thoughts: "I am very glad", he wrote to Bradford, "that you have so early seen through the romantic paintings with which the world is sometimes set off by the sprightly imaginations of the ingenious. You have happily supplied, by reading and observation, the want of experiment; and therefore I hope you are sufficiently guarded against the allurements and vanities that beset us on our first entrance on the theatre of life. Yet, however nice and cautious we may be in detecting the follies of mankind, and framing our economy according to the precepts of Wisdom and Religion, I fancy there will commonly remain with us some latent expectation of obtaining more than ordinary happiness and prosperity till we feel the convincing argument of actual disappointment . . . a watchful eye must be kept on ourselves, lest while we are building ideal monuments of renown and bliss here, we neglect to have our names enrolled in the annals of Heaven". After bestowing this sober advice, Madison continued, commenting on Bradford's choice of winter reading. History and the science of morals he considered to be of the most universal benefit to men, and certainly of great use to youth "in settling the principles and refining the judgement". He recommended that these studies be seasoned with a little divinity which "like the philosopher's stone, in the hands of a good man, will turn them and every lawful acquirement into the nature of itself, and make them more precious than fine gold".

A year and a half later he wrote to Bradford expressing his pleasure that the citizens of Philadelphia had conducted themselves heroically with regard to British tea, and he continued with a disquisition upon "*belles-lettres*", which Bradford had apparently given up in order to study law. Madison sym-

pathized with him, saying that it was like leaving a pleasant flourishing field for a barren desert. "I myself used to have too great a hankering after those amusing studies. Poetry, wit, and criticism, romances, plays, &c., captivated me much; but I began to discover that they deserve but a small portion of a mortal's time, and that something more substantial, more durable, and more profitable befits a riper age . . ."

This is all very gloomy \* and perhaps a bit Presbyterian. Some twenty years later a rumor went around James City that Madison had become a Methodist. The story had no foundation, and the full-grown statesman was probably a Deist. But he always retained a tendency toward non-conformist standards of ethics and economics, and he had a tender spot in his heart for religious dissenters. The latter now led him into his first serious political enthusiasm, on behalf of a few Baptist preachers, who had appeared in Orange County and been jailed.

The English Church was established by law in Virginia. Assured of funds from the public treasury, and supported by the wealthiest and most respectable of the inhabitants, it was as in England a prosperous vested interest, comfortably propping up the aristocratic social structure. It was under the supervision of the Bishop of London, and its resident parsons were too often selected from among those aspirants to ecclesiastical preferment who could not meet even the modest requirements of the Church in England. Hence its spiritual state was notoriously low, and its ministers more adept at hunting, eating, and drinking than at the cure of souls. Madison disapproved of it; "pride, ignorance, and knavery prevail among the priesthood", he wrote, "and vice and wickedness among the laity". "That liberal, cath-

\* Perhaps Madison's solemnity has been exaggerated. The following passage from his letter to Bradford of April 1, 1774, was discovered in the manuscript. Apparently it was considered unworthy of being printed by those who edited his writings in 1865. "I agree with you that the World needs to be peopled but I should be sorry it should be peopled with bastards as my old friend Dod and — seem to incline. Who could have thought the old monk had been so lecherous. I hope his religion like that of some enthusiasts was not of such a nature as to fan the amorous fire". Pennsylvania Historical Society, Wallace Papers, I, 41.

olic and equitable way of thinking, as to the rights of conscience, which is one of the characteristics of a free people . . . is but little known among the zealous adherents to our hierarchy”.

The debased state of the established church, and its identification with the interests of the wealthier classes, encouraged the creation of a considerable body of dissenters, mainly in the less favored levels of society. They were apt to be vociferous and disrespectful, but their good qualities tended to attract pious persons away from the orthodox communion, and even to endanger the perquisites of the clergy. Partly for the purpose of maintaining religious orthodoxy, but more for keeping up the respectability of society generally, the laws of Virginia contained from old times barbarous acts against heretics. They were seldom enforced, but remained ready for use whenever public opinion should desire it. During 1774 a mild repression of Baptists in Orange County provoked Madison to uncommonly emphatic language: “That diabolical, hell-conceived principle of persecution rages among some; and to their eternal infamy, the clergy can furnish their quota of imps for such business. There are at this time in the adjacent country not less than five or six well-meaning men in close jail for publishing their religious sentiments, which in the main are very orthodox. I have neither patience to hear, talk, or think of anything relative to this matter; for I have squabbled and scolded, abused and ridiculed, so long about it to little purpose, that I am without common patience. So I must beg you to pity me, and pray for liberty of conscience to all”. Some slight hopes which he entertained of legislative relief at the next session were disappointed, and his emotions were stored up for use in future controversies. But he became known as a friend of religious liberty, and before his career was over, the dissenters were able to repay his friendship with valuable votes.

Feelings such as these, together with more outdoor exercise and less study, gradually lightened the sombre hue of the young man’s reflections, and we hear little more of melancholy repining. His letters begin to take on some of the characteristics



of his mature writing. In 1774 he went on a trip to Philadelphia, and during that spring vouchsafed the first genuine sample of that fine eighteenth-century optimism which supported him through so many trials. He is praising the colony of Pennsylvania: "You are happy in dwelling in a land where those inestimable privileges are fully enjoyed; and the public has long felt the good effects of this religious as well as civil liberty. Foreigners have been encouraged to settle among you. Industry and virtue have been promoted by mutual emulation and mutual inspection; commerce and the arts have flourished; and I cannot help attributing those continual exertions of genius which appear among you to the inspiration of liberty, and that love of fame and knowledge which always accompany it. Religious bondage shackles and debilitates the mind, and unfits it for every noble enterprise, every expanded prospect. How far this is the case with Virginia will more clearly appear when the ensuing trial is made."

So concerned was Madison with the fate of the Baptists that he seems by comparison to have had only a perfunctory interest in the stirring events taking place in Williamsburg. The session of the legislature of May, 1774, was confronted with the news of the Boston Port Act and the other retaliatory measures following the Tea Party. During the following summer the assembly defied Governor Dunmore, met as a Convention without legal authority, and drew up an agreement not to import goods from England. Merchants refusing to sign the agreement were to be deemed public enemies. In the autumn and winter committees were formed in each county, which supervised the fulfillment of the non-importation agreements, and exercised a more or less tyrannical control over the actions and opinions of their neighbors.

Madison's opinions on the issues of the day were already fixed, and he was "confirmed in political orthodoxy" by reading the pamphlets of Dean Tucker. He observed a general approval in Virginia of the conduct of the Bostonians, and also found many persons glad of a little trouble, because it might postpone

the payment of their debts to English merchants. The Orange County Committee was formed on December 22, 1774, with the elder James Madison as chairman, and his son among the members. By January they were very busy in raising men, storing provisions, and preparing for a "sudden invasion". "There will, by the Spring, I expect, be some thousands of well-trained, high-spirited men ready to meet danger whenever it appears, who are influenced by no mercenary principles, but bearing their own expenses, and having the prospect of no recompense but the honor and safety of their country".

The ordinary people of the neighborhood were forced to sign the association, in order to test their conformity with the principles of the majority. In Orange County, according to Madison, the only people to refuse were the Quakers. We have only two records of the deeds of the Orange Committee, one of which is a memorial of praise and support to Patrick Henry, dated in May, 1775, and the other a story illustrating the kind of zealous crime which used to be committed, perhaps unavoidably, in the name of liberty. It appeared that a Reverend Mr. Wingate had in his possession some pamphlets reflecting upon the Continental Congress and other American institutions. The committee demanded the pamphlets, and when Mr. Wingate tried to save them, it "peremptorily insisted". Having examined them, the patriots resolved ". . . that these pamphlets deserve to be publicly burnt, as a testimony of the committee's detestation and abhorrence of the writers and their principles." The sentence was promptly carried out, "in the presence of the Independent Company of Orange, and other respectable inhabitants of the said county, all of whom joined in expressing a noble indignation against such execrable publications, and their ardent wishes for an opportunity of inflicting on the authors, publishers, and abettors, the punishment due to their insufferable arrogance and atrocious crimes".<sup>3</sup> We may wonder whether Mr. Madison, while fighting the Sedition Act in 1798, ever remembered the atrocious crime of the Reverend Mr. Wingate, in 1775.

Doubtless Madison learned something of the rougher sort of

politics during these months of work on the committee. His brother Ambrose joined the army, and he himself enlisted in a minuteman's company, but soon found his strength insufficient for a military life.<sup>4</sup> None of his activities during this period were conspicuous, and few have been remembered, until in April, 1776, at the age of twenty-five, he was elected delegate from Orange County to a new convention, in which he took his seat on May 6. Then began a public career which was to last almost without interruption for forty-one years. Later on, it seemed to Madison that life itself had scarcely begun, for him, before 1776. But he can hardly have imagined, as he set out from home that spring, what remarkable events lay immediately before him.

## 2

The Convention which assembled in Williamsburg early in May, 1776, was naturally a revolutionary body, as its predecessors had been. But it was destined to enjoy a greater distinction than any of the other conventions which had been managing the affairs of Virginia since the end of effective royal government. Among the patriots it was pretty generally agreed that extreme measures had become necessary, and that there was little, if any, chance of obtaining a satisfactory redress of grievances from England. The convention had not been elected upon a particular platform, and it bore no special mandate from the people. Yet it proceeded, on May 15, to the most drastic act yet attempted in America. It voted on that day to instruct its delegates in Congress to propose a resolution affirming the independence of the united colonies, and it also voted to undertake the task of writing a new state constitution. The Declaration of Independence of July 4 was a direct result of the first vote, and the constitution of Virginia of the second.

It thus happened more or less by chance that Madison stepped upon the political stage just as the prologue ended and the first act of a great drama began. We have only the scantiest knowledge of the deliberations of the convention, for no minutes of

debates were kept, and since most of the talking was done in committee of the whole, the official Journal has little to say. The personnel was generally held to be rather mediocre. Jefferson, R. H. Lee, and George Wythe were in the Continental Congress, although the last two named arrived in Williamsburg just before the sessions closed. By far the most influential member of the body was George Mason, of whom Madison once said that "he possessed the greatest talents for debate of any man he had ever seen or heard speak".<sup>5</sup> Mason was then fifty-one years of age, a wealthy planter and neighbor of Washington, with whom he was on intimate terms. He had been well trained in law, had read and thought much on questions of politics, and without being quite equal to such men as Jefferson and Adams was yet possessed of intellectual abilities well above the average. He belonged to the liberal school of thought, as his Declaration of Rights will show, and yet he was characterized by a cautious deliberation somewhat like that of Washington. He inspired confidence rather than enthusiasm in the large following which his ability and wealth always commanded, and he retained the respect of his political opponents through the most heated controversies. Such men were the glory of Virginia.

At the other extreme was Patrick Henry, probably the second most important man in the convention. He possessed neither fortune, education, nor much intelligence, and had risen from the status of a common loafer by the sheer enchantment of his oratory, which became fabulous even before he died. Now forty years old, he was just coming to the height of his influence. The common people followed him like sheep. He was a demagogue, eccentric, irresponsible, self-confident, and filled with a passion for liberty, whatever that might be. Sober men were inclined to view him with alarm, and wonder which way he would jump next, for large numbers of popular votes were sure to be cast on his side of any issue. For twenty years he remained the strongest political force in Virginia, with the exception of Washington, and if his policy was not always irrepachable intellectually,

the general populace had some reason to believe that his heart was in the right place.

Presiding over the deliberations of the convention was Edmund Pendleton, a man of fifty-two, a veteran politician, and a learned, cautious and respected lawyer. Of the few younger members perhaps the most noteworthy was Edmund Randolph, who remained a close friend to Madison through many years and great vicissitudes. Randolph was a budding lawyer of high abilities, possessed of much personal charm, and cursed with a landed estate which had gone to seed and could not pay for itself. He was a man of honor, but too soft-hearted and indecisive for political life. Misfortune dogged him, until finally, after vacillating once too often while acting as Washington's Secretary of State, his public career ended in somewhat unmerited disgrace.

Madison was diffident. No one at Williamsburg knew him, while the size and importance of the convention was such that he did not dare to engage in public debate, but bestowed his wisdom upon those who sat near him in the hall. Randolph wrote a description of Madison at the convention, and declared that the recipients of his remarks were much impressed by them: "It could not be otherwise; for although his age and the deference which in fewer circles had been paid to him, were apt to tincture him with pedantry he delivered himself without affectation upon Grecian, Roman and English history, from a well digested fund, a sure presage of eminence . . . While he thrilled with the ecstasies of Henry's eloquence, and extolled his skill in commanding the audience, he detected what might be faulty in his reasoning. Madison was enviable in being among the few young men who were not inflated by early flattery and could content themselves with throwing out in social discourse jewels which the artifice of a barren mind would have treasured up for gaudy occasions."<sup>6</sup>

Having crossed their Rubicon and declared for independence, the convention set about the business of writing a constitution.

A committee of nearly forty members, including Madison, was appointed for the purpose, and under the leadership of Mason it brought in first a Declaration of Rights and then a Plan of Government, both of which were adopted without substantial change by the end of June. The Plan of Government, despite numerous shortcomings, endured until 1829, when Madison participated in the convention which met to revise it. It provided for a legislature of two chambers, elected not by universal suffrage but by the votes of those only who owned a considerable amount of land. Each county, large or small, sent two members to the lower house. The legislature had rather too much power. The two houses, meeting together, elected a governor and a privy council of eight members, as well as all the judges, and the representatives of the state in Congress. The governor had no power of veto, nor could he adjourn the legislature. Madison soon came to disapprove heartily of this constitution, which indeed was inspired more by colonial distrust of executive authority than by sound political wisdom.

But if the Constitution was a lame affair, the Declaration of Rights left little to be desired. Eloquently and solemnly, before proceeding to business, the Virginians set forth their philosophical presuppositions. It is worth while to paraphrase them: All men are by nature free and independent, and have an inherent and inalienable right to the enjoyment of life and liberty, with the means of acquiring and possessing property, and preserving and obtaining happiness and safety. This is the fundamental truth, and it follows: that all power is vested in and derived from the people, and that magistrates are the servants of the people; that the purpose of government is to secure the happiness and prosperity of the people, and when it does not do so, they may form a new one; that no man is entitled by hereditary right to any office or emolument from the community; that the legislative and executive powers shall be separate and distinct from the judiciary, and that members of the first two ought frequently to return to the status of common citizens, and elections be held in which all men having an interest in and attachment

to the community may vote; that no man may be deprived of his property for public use without his own consent, or that of his elected representatives; that men have the right of being tried by jury; that excessive bail ought not to be required, or cruel and unusual punishments inflicted; that freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments; that a well-regulated militia, composed of the body of the people, is the proper defence of a free state, but that standing armies in time of peace are dangerous to liberty, and in all cases the military should be in strict subordination to the civil power; that justice, moderation, temperance, frugality, and virtue are necessary for the preservation of any free government; and that Religion, and the manner of discharging it, can be directed only by reason and conviction, and all men are equally entitled to the free exercise of religion according to the dictates of conscience.

With this ritual Madison received his initiation into public life. Copied though much of it was, from old faiths and philosophies, and old monuments of English history, it made no antique and empty formula in 1776, but a vital creed. It did not contain all wisdom, for there is much of life and liberty which is beyond expression in a political document. Yet as the social superstitions of earlier ages were religious in terminology, and of later ones economic, those of 1776 were political, and Madison remained to the end of his life an exceedingly political animal. It was a fitting initiation.

Only one suggestion made by him during the debates on the Declaration has been recorded. It has already been observed that his chief interest during this period was in religious matters as they affected the state, and especially in the condition of the dissenters. The Convention was wholly opposed to any kind of religious persecution, and in the Bill of Rights as introduced, there was a provision for religious *toleration*. Madison, with scholastic minuteness, objected to this word, as implying that religious freedom, instead of being a natural right of man, was granted as an act of grace by an established church. He sub-

mitted an amendment, which omitted the ill-chosen word, and further provided that no man or class of men ought to be entitled, on account of religion, to any special emoluments or privileges, or subjected to any special disabilities. The amendment was not adopted as a whole, but the word toleration was avoided in the final bill. Had the remainder of Madison's proposal been carried, much of the ensuing controversy over the church in Virginia might have been averted.

## 3

The convention adjourned after the constitution had been adopted, on June 29, and met again early in October, this time not as a convention, but as the first House of Delegates. The event most momentous for Madison was the beginning of a far more important friendship than any he had yet formed, when Jefferson returned to the Virginian legislature, having decided that the "labouring oar" was in his native state rather than in the Continental Congress. Patrick Henry had been elected governor; he moved into the house formerly occupied by Lord Dunmore, began to wear fine clothes, to assume an immense dignity, and in general to grow into the respectability which advancing age and increasing wealth brought upon him. The Revolution was finished, for him, on July 4; it had just begun for Jefferson. That young man took his seat in the House of Delegates with a far-reaching program of reform on his mind; a social revolution not much less startling than the political revolution which was being accomplished against England. He proposed to abolish entail and primogeniture, by which great estates passed down from eldest son to eldest son, intact and protected against distribution among numerous children. Thus a system at least as old as Edward I was marked for destruction, and the creation of an hereditary aristocracy of wealth was to be rendered difficult, if not impossible. He proposed the complete severance of all connection between church and state, so that each religious body should depend solely upon the voluntary contributions of



its members for support. He had in mind a complete system of popular education, culminating in a University for those best qualified, and a remodelling of the legal system, including the creation of new courts of justice, the reform of the criminal law, and the writing of a code. Mr. Jefferson was then thirty-three years old. No sooner had the legislature met than he commenced his revolutionary activities.

Thereupon Virginia divided into two camps, clearly distinguished by their attitude toward Jefferson's plans, and in particular by their reactions to his proposed abolition of entail. The names of Page, Braxton, Nicholas, Bland, and Pendleton appear in the conservative group, and gradually Patrick Henry moved to their side. Jefferson had few eminent supporters, but George Mason and the wise old lawyer, Wythe, were in themselves a legion. Madison was a small and timid member of the radical party, and his voice was seldom raised in debate. Ten years later he was again in the Virginia legislature, but then he was himself the leader of the radicals, struggling manfully to put through the reforms which Jefferson began in 1776, but which the exigencies of war and of politics had greatly delayed.

A brief review of the course of events for the first few weeks of the legislature may perhaps arouse some sympathy for the old landed aristocrats, caught up as they were into a swirl of revolution. The Delegates met on October 7; on October 11 Jefferson obtained permission to bring in a bill establishing a system of courts, and within the next two or three days he was authorized to introduce measures abolishing entail, disestablishing the church, and revising the laws. A committee "Of Religion" was appointed, of which Jefferson was the leader, and a committee of five, including Jefferson, Wythe and Pendleton, was appointed to revise the laws. Although no thoroughgoing disestablishment of the church was carried, all laws restricting the freedom of dissenters were repealed, dissenters were exempted from contributions to the Episcopal Church, and levies upon members of that church for its support were suspended. The abolition of entail was carried. Before Christmas Jefferson

had deeply antagonized the party of the landed aristocracy, but his group remained dominant without difficulty for another two years.

In 1777 Madison stood for reelection. It was customary to hold county elections in the English style, with a liberal dispensation of drink and other good cheer by the candidates, and a jovial riotousness among the voters. Madison disapproved of this method of registering popular opinion, and refused to buy votes by treating the populace. As a result he was defeated, for the voters attributed his conduct to stinginess rather than to high moral principle.<sup>7</sup> One would think that faith in government by the people might be weakened by an experience of this sort, but it does not seem to have made such an impression upon Madison. He spent the summer of 1777 in Orange, assisting in the activities of the County Committee, which continued its good work of insuring a united front against the British. In November the legislature elected him a member of the Privy Council. This body, which Madison later called a grave of talents, was not yet recognized as such, and it was a signal honor which was thus bestowed upon a man of only twenty-six years.

Madison was on the Council for the remainder of Henry's governorship, and for the first few months of Jefferson's administration, which began in 1779. We have no record of his activities during this period which tells much of interest. He lived with his cousin, the President of William and Mary College, and endeavoured to repay that worthy man's kindness with presents of food and fruits from Orange County. The entire period was, on the whole, a quiet one for Virginia, and although the legislature repeatedly granted extraordinary powers to the governor, he was mainly concerned with raising recruits and dispatching them to join Washington's army, first in the north, and later, as the theater of war changed, in the south. It is related that Madison was the only member of the executive who knew any foreign languages, and that he therefore was often employed as an interpreter and translator.

Jefferson pointed out that Madison's membership in the gov-

ernor's council, which was a very small body, first gave him confidence to speak out in debate, which his shyness had hitherto forbidden. A few years of this practice, and he was ready for the larger and more dignified assemblies in which he later showed no disposition to remain silent. He also developed a familiarity with the personalities and the politics of Virginia. His career was based upon an understanding of the interests of his native state. He entered national affairs with experience of local problems, and an acquaintance with the duties of the executive as well as the legislative branch of government.

In December, 1779, at the age of 28, Madison was chosen by the Virginian legislature to be a delegate to the Continental Congress. It was a fortunate time to leave Virginia, for the war was about to move into that state, and the reputation of Governor Jefferson never sank so low as in 1780 and 1781. While fortunes and fame were being lost at home, Madison remained with Congress in Philadelphia. He had finished his apprenticeship, and was ready to take an active and important part in the affairs of the country.

CHAPTER II  
*IN THE CONTINENTAL CONGRESS*  
1780-1783

THE present situation of the army with respect to provisions is the most distressing of any we have experienced since the beginning of the war. For a Fortnight past the Troops, both officers and men, have been almost perishing for want. They have been alternately without Bread or Meat the whole time, with a very scanty allowance of either and frequently destitute of both. . . . They are now reduced to an extremity no longer to be supported". Thus wrote George Washington to the magistrates of New Jersey on January 8, 1780. A hundred more quotations could be collected with ease, presenting the same gloomy picture, and a thousand details could be added, filling it in. Perhaps of all the years of war, 1780 was most dismal. The army was half-starved, ragged, unpaid, mutinous, deserting by scores; the Congress argued, pleaded, hoped, and quarreled. The war had dragged on for a long time. It had become a weary and often inglorious struggle, and the patriotic ardor had cooled in many a bosom. A war of such length required more than patriotism of those who would win it, it required money, men, and above all organization and discipline. The responsibility for supplying these paramount necessities rested upon the unsteady shoulders of the Continental Congress.

In the year 1780 that body had no constitutional power whatever. The Articles of Confederation had been drafted, but their ratification had been delayed by unseemly squabbles over land grants, and other matters. Meanwhile each state sent a few men to represent it in Congress. Sometimes these men were given instructions, or powers; sometimes they were not. Some states were disposed to make great sacrifices for the common cause, and to expect great sacrifices from other states; some were more deeply concerned lest they be furnishing more than their proper

share of money and men. Above all things this tragic fact stood out; that there was plenty of food, plenty of clothing, plenty of men, and even plenty of money within the borders of the thirteen colonies, but that this food, clothing, money and men were not being adequately mobilized against the enemy. Hence the more patriotic a man was, the more he suffered by comparison with his neighbors. If he served faithfully in the army, he nearly starved, and so did his family. If he contributed money or supplies, or accepted depreciated currency, he impoverished himself for the benefit of selfish neighbors. It was the business of Congress to adjust this matter, and they could not do it. In the spring of 1780 they reached a crisis.

For four years the Revolution had been financed mainly by issues of paper currency. If Congress could not impose taxes, they could at least run a printing press, and they had done so until by September of 1779 \$200,000,000 had been issued. But the war showed no signs of ending, and the inflation of currency was becoming serious. In September they stopped printing money, and resolutely set out to find other resources. The most immediate result was the shutting off of supplies, resulting in the situation which Washington described in the letter quoted. Throughout the winter the representatives wrestled with their problem, and finally reached a momentous decision. Thirty-nine fortieths of the value of the paper money was flatly repudiated, and the debt was thus reduced to \$5,000,000. For the future no money would be issued unless provided for by the contributions of the states.

This act was passed on Saturday, March 18, 1780, and on the same day Madison arrived in Philadelphia, after a very muddy journey from Orange. He took his seat in Congress on Monday, as the new era in finance began, and soon communicated his impressions to Jefferson. They were of the darkest: "Among the various conjunctures of alarm and distress which have arisen in the course of the Revolution, it is with pain I affirm to you, sir, that no one can be singled out more truly critical than the present." He reported details: the army was faced with the alterna-

tive of disbanding entirely or living on free quarter; the treasury was empty, public credit was exhausted, "an old system of finance discarded as incompetent to our necessities, an untried and precarious one substituted, and a total stagnation in prospect between the end of the former and the operation of the latter." The Congress itself was uninspiring. The best men in the country were in the army, in Europe seeking aid, or active in the governments of the states, and by 1780 only second-rate men came to Philadelphia. They trembled at the very idea of doing anything, wrote one member, and their souls were encompassed by a nutshell. Madison thought that "from a defect of adequate statesmen" wrong measures were likely to go through, and right ones could not be enforced. Meanwhile all was confusion, "Congress complaining of the extortion of the people; the people of the improvidence of Congress; and the army of both". It was a sad situation, and Madison looked to the future with "the most pungent apprehensions".

As it happened, the day on which he took his seat in Congress was the day on which it came to its lowest point of power and influence. This was due to the nature of the finance bill. As long as paper money could be printed the whole wealth and resources of the country were within the command of Congress, and they could go on with their affairs as they pleased. But having given up that policy, they became wholly dependent upon the contributions which the States might see fit to make. Madison realized this perfectly. Congress, he wrote, "are now as dependent on the States as the King of England is on the Parliament. They can neither enlist, pay nor feed a single soldier, nor execute any other purpose, but as the means are first put into their hands. Unless the legislatures are sufficiently attentive to this change of circumstances and act in conformity to it everything must necessarily go wrong, or rather must come to a total stop. All that Congress can do in future will be to administer public affairs with prudence, vigor and oeconomy".\*

\* This quotation makes clear the conception of Congress as an *Executive* rather than a *Legislative* body, a notion which some patriots were unable to get out of

Whatever hopes had been raised by the new scheme were speedily dashed. The states showed no disposition to cooperate. At the end of May two regiments mutinied, and were only reduced to order when their officers gave up their own food to the privates, and lived on bread and water. Washington wrote that all departments and all operations were at a stand, and that unless some different system of supply were adopted the situation would soon become desperate beyond the possibility of recovery. "Indeed", he added, "I have almost ceased to hope. The country in general is in such a state of insensibility and indifference to its interest, that I dare not flatter myself with any change for the better".

Meanwhile Gates was defeated in the South, and Benedict Arnold, driven to despair by the futilities of his country, turned traitor in the North. No campaign whatever was fought by the main army during 1780. Congress valiantly did the only thing it could, which was to exhaust the possibilities of rhetoric in appealing to the states for supplies. Washington added his appeals, and enough food was sent in to keep the soldiers precariously alive. The only bright spot in the year was the arrival of news that France was sending a force of ships and men, though the optimism which this induced was shadowed by the ignominious reflection that when the French arrived they might have to fight the war by themselves. Joseph Jones lamented that America did so little for herself while accepting so much aid from her ally. Yet in one way or another the war managed to go on, and Congress kept its head barely above water by a succession of disreputable expedients.

During these parlous times Madison's political education progressed rapidly. He was a very dutiful member of Congress, and thus in startling contrast to most of his fellows. He wrote a weekly letter to Virginia, reporting such foreign and military news as Congressmen were in a position to pick up, and filled their heads. Whenever a proposal was made to give Congress the power to tax, it was violently opposed by scrupulous theorists such as Lee of Virginia, who remarked that no one having read a word on the subject of Liberty would put the purse into the same hands that held the sword.

out his accounts with political speculation. The failure of the states to contribute to the cause greatly troubled him. In Virginia there was destruction abroad, for the English had carried the war to that state, and penetrated as far as Charlottesville, a fact which must have aroused a livelier patriotism in the son of an Orange planter. Underlying the whole situation Madison saw the financial problem. "The want of [money]", he wrote, "is the source of all our public difficulties and misfortunes. One or two millions of guineas properly applied, would diffuse vigor and satisfaction throughout the whole military departments, and would expel the enemy from every part of the United States. It would also have another good effect. It would reconcile the army and everybody else to our republican forms of government; the principal inconveniences which are imputed to them being really the fruit of defective revenues. What other States effect by money, we are obliged to pursue by dilatory and indigested expedients, which benumb all our operations . . ." This was a thoroughly sound basis on which to begin thinking about government. The longer Madison stayed in Congress, the more concerned he became about finance, and the more he thought about finance the more convinced he became that the confederation was too weak an organization to fulfill its obligations. While John Marshall and others were learning the desirability of a more perfect union by starving and freezing in the army, Madison was discovering it by participating in the interminable wrangles of a council of ambassadors. Eight years later he arose in the Virginia Convention and defended that clause in the Constitution which authorized the federal government to levy direct taxes, and he did it with a conviction born of these times.

Meanwhile the depreciation continued. For example, in six months Madison spent \$48,604.66, of which \$1020 went to the barber, and \$1776 for laundry. Virginia was unable to pay her delegates, and Madison was forced to resort to the mercies of Haym Solomon, a money-lender in Philadelphia who demolished his own fortunes while helping Congressmen, from whom he refused to take any interest.



By April, 1781, Madison was firmly convinced that Congress must have some power beyond that of exhortation. He drew up the report of a committee, which recommended an addition to the Articles of Confederation, now only a month in operation themselves. This addition would empower Congress "to employ the forces of the United States, as well by sea as by land" for compelling the states to fulfill their federal obligations. Requisitions were to be collected, if necessary, by distraint upon the trade to delinquent states. He sent a copy of the report to Jefferson with a covering letter: "The necessity of arming Congress with coercive powers arises from the shameful deficiency of some of the States which are most capable of yielding their apportioned supplies, and the military exactions to which others, already exhausted by the enemy and our own troops, are in consequence exposed". In other words, now that Virginia was being invaded, she might well consent to drastic measures. But Madison feared that if this amendment should be proposed, and then rejected, the last condition of the government would be worse than the first, "for as the Confederation now stands, and according to the nature even of alliances much less intimate, there is an implied right of coercion against the delinquent party, and the exercise of it by Congress, whenever a palpable necessity occurs, will probably be acquiesced in". This is the first appearance in Madison's writings of a doctrine of implied powers.

This report was shelved. Robert Morris was confirmed as Superintendent of Finance, although such power in the hands of one man was viewed with alarm by several stout republicans, and he managed to drag a recalcitrant country through the necessities of the Yorktown campaign. Early in September, French troops passed through Philadelphia on their way to the south, and the members of Congress, watching them march by, were gratified by receiving a royal salute. "The engaging figure and behaviour of the officers of all ranks, their dress, the cavalry, musick, arms, artillery, the figure and behaviour of the privates, and the uniform motion of the whole, afforded the most

pleasing prospect of the kind I ever saw", wrote Samuel Livermore of New Hampshire. Madison was more practical. He wrote that the presence of the French in Virginia would permit the militia to return to their domestic concerns, "at the same time that the demands of the armies will afford a sure market for the surplus provisions of the country, will diffuse among them a share of the gold & silver of our ally & I may say now of our own of w<sup>ch</sup> their Northern Brethren have hitherto had a monopoly which will be particularly grateful to them after having been so long gorged with depreciating paper". It would appear that the northerners had disgruntled Madison. He proposed to Jefferson that the confederation keep up a navy, for "without it, what is to protect the Southern States for many years to come, against the insults and aggressions of their northern brethren".

But many troubles could soon be forgotten. At three o'clock on the morning of October 22, a messenger rode into Philadelphia with news of the surrender of Cornwallis. The city impatiently awaited official confirmation of this glad rumor, and on the morning of October 24 Colonel Tench Tilghman arrived with Washington's dispatches. There was not enough hard money in the treasury to pay Tilghman's expenses, and the Congressmen had to take up a collection for the purpose from their own pockets. The terms of capitulation were pronounced satisfactory, and joy reigned. In the afternoon Congress, together with other dignitaries, attended divine service at the Lutheran Church. In the evening the city was illuminated \* but an elaborate display

\* A contemporary description of this illumination was calculated to edify posterity: "Mr. Alexander Quesnay de Glovay being desirous, upon the evening of the late illumination of this city, to participate with the inhabitants in their testimonies of joy on that memorable occasion, exhibited at his lodging in Second-street, between Chestnut and Walnut-streets, a beautiful spectacle, *viz*— On the right window were seen thirteen stars, representing the thirteen United States, each of which diverged a ray of virtue towards the name of his excellency general Washington, which encircled a quiver. The names of the thirteen virtues are: 1. Wisdom, 2. Justice, 3. Strength, 4. Temperance, 5. Faith, 6. Charity, 7. Hope, 8. Courage, 9. Religion, 10. Love, 11. Policy, 12. Friendship, and 13. Constancy. Over this were three flowers de luce, which environed the count de

of fireworks had to be postponed until the next night on account of bad weather. Madison was delighted: "I return you my fervent congratulations on the glorious success of the combined arms at York and Gloucester", he wrote Pendleton. ". . . If these severe doses of ill fortune do not cool the phrenzy and relax the pride of Britain, it would seem as if Heaven had in reality abandoned her to her folly and her fate . . . it seems scarcely possible for them much longer to shut their ears against the voice of peace".

It appeared that the war had been won, and before long the independence of the thirteen states was recognized, first by Holland, and eventually by all countries. The economic condition of the country in 1781-1782 was not at all bad. Since the end of the emission of paper money by Congress, a trade had sprung up with Havana, which brought in considerable amounts of hard

Grasse's name, with the motto, HUZZA! diverging three rays of joy towards the said thirteen states.

"On the left window was drawn, the picture of the illustrious American commander, with his lance in his hand, trampling under foot the crown of Britain, with this motto, BRITISH PRIDE. Over this were three flowers de luce, standing about the count de Rochambeau's name, with the motto HUZZA! which also diverged three rays of joy towards the aforementioned illustrious hero. The whole was formed by different colours, in the nicest and most expressive manner, and attracted not only the notice, but the universal admiration of the numerous spectators.

"The succeeding evening Mr. PEALE had his house most beautifully illuminated. At the lower window was represented a large ship, under sail, with the word "CORNWALLIS" on her stern, and the flag of France erected over that of the British, emblematical, first, of the assistance of the fleet of our great Ally; second, the taking a fine ship is justly compared to the glorious conquest of Cornwallis; and third, her fast sailing, to his rash and precipitate movements in some of the southern states.

"At the middle window, in the second story, the Portraits of our illustrious CHIEF and the Count ROCHAMBEAU, with rays of glory from them; over their heads, two Laurel Crowns, interlaced; and the whole incircled with palms and laurel branches—

With this motto,

" 'SHINE VALLIANT CHIEFS'

And on the third story, in large letters, the words,

" 'FOR OUR ALLIES HUZZA! HUZZA! HUZZA!'

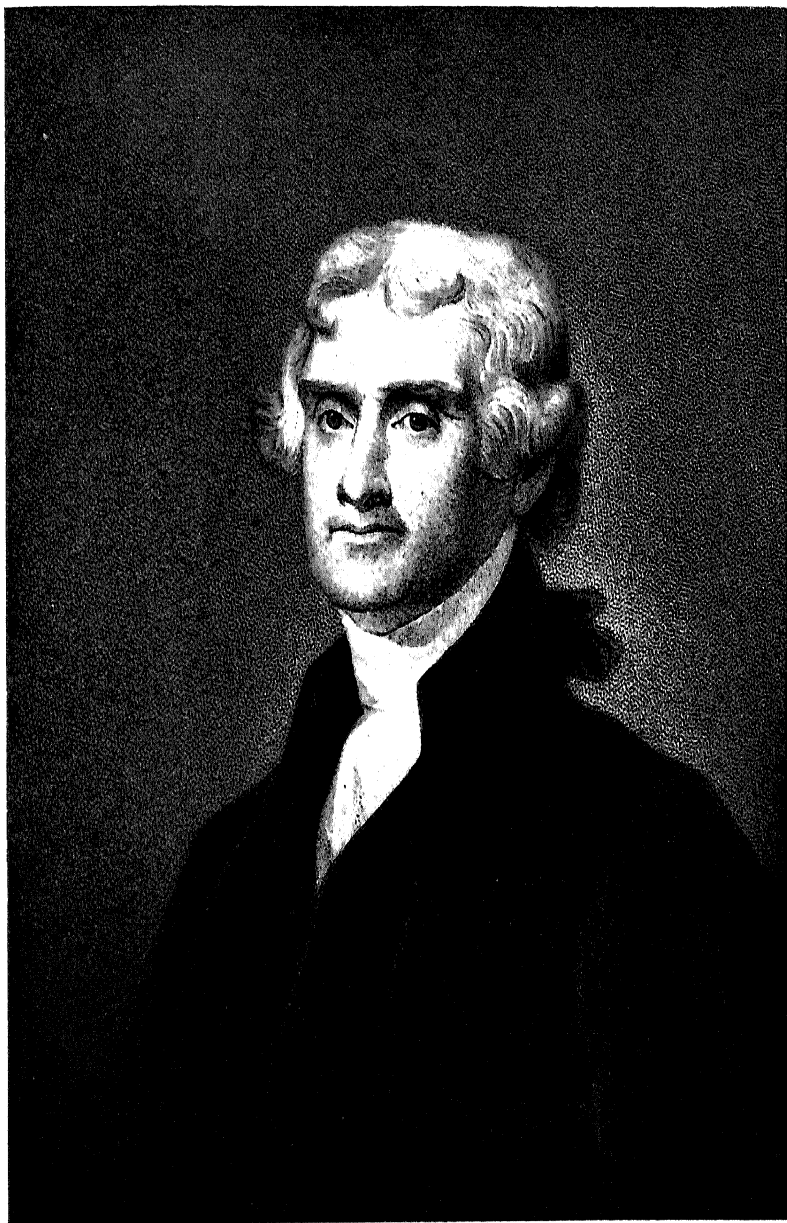
The whole in transparent Painting".

From the *Pennsylvania Packet* of November 1, 1781. Quoted in E. C. Burnett, ed., *Letters of Members of the Continental Congress*, VI, 250-251, n.

money, and this was augmented by the expenditures of the French and English armies. The inflation had, of course, ruined such of the old creditor classes as had not been shrewd enough to save themselves. Debts and mortgages had been paid off, and it was said that the normal state of affairs was reversed in America, for the debtors pursued the creditors, forcing paper money on them. New wealthy classes appeared, and the cities saw more luxury and ostentation than ever before, a luxury which involved the purchase of foreign goods, to the dismay of orthodox economists. The years after Yorktown were boom years.

Amidst all this abnormal prosperity the federal authority languished, bankrupt and ridiculous. According to the Articles of Confederation, which had finally been ratified in March, 1781, Congress had the power of deciding how much money was necessary to run the government, and could appropriate this money to its specific uses. Congress could emit bills of credit, and could contract loans. But for the actual raising of money there was but one method: to apportion the total amount among the states according to the value of the land in each, and make requisition of each state for her share. The system could not be put into full operation, because no valuation of lands was possible during the war, and because in the chaotic state of the currency it was almost impossible to discover what the contribution of each state had been in the past. But the incessant complaint, reiterated until it became a tiresome platitude, was that the states would not pay in their requisitions at all, whether justly or unjustly levied. Americans did not like to pay taxes. In the whole financial system there was neither order nor sense.

The greater part of the blame which was heaped on Congress was undeserved. Truly it was a slow and disputatious assembly, but it can scarcely be condemned for failing to do what it had no power to do. The members eventually recognized the need of reform, and on February 3, 1781, even before the Articles had been ratified, they asked the states for power to levy a five per cent impost duty on all imported goods, except arms, am-



THOMAS JEFFERSON



munition, and a few other articles. It was contended that this duty would not only supply the treasury with money for current expenses, but also establish the credit of the United States so that new loans might be secured for carrying on the war. The plan was a wise one, and if adopted would have ended many of the troubles of the Confederation. Perhaps it might have prevented the writing of the Constitution.

For almost two years this measure hung fire among the states, until in the autumn of 1782 it was finally defeated by the refusal of Rhode Island to ratify it. Madison was disgusted: "This State, by its Delegates (who fully represent the aversion of their constituents to the impost) voted in Congress That 6 Millions of Dollars were necessary for the year '83, that 2 Millions were as much as the States could raise & as ought to be required by Congress, and that applications for loans in Europe ought to be relied on for the residue. And yet they absolutely refuse the only fund which could be satisfactory to lenders. The indignation against this perverse sister is increased by her shameful delinquency in the constitutional requisitions". He was appointed on a committee to draft a reply to the objections of Rhode Island. With him were Hamilton and Fitzsimmons, chosen from a Congress containing more talent than it had had for some years in the past. The document which these three concocted has some interesting points. In answer to the Contention that such a tax was contrary to the spirit of the confederation, it was declared that since Congress was invested with the power to borrow money, it was therefore, by implication, also vested with power to raise what sums were necessary to make its borrowings possible. This was a doctrine of implied powers worthy of Hamilton's later years, though it was not used to justify an actual tax by Congress. If Congress had the power to borrow money, said the committee, and if it could not borrow money without securing the interest by taxation, then it had the power to levy a tax for this purpose. With this Madison agreed. Another heresy of the Rhode Islanders was that the impost

would be paid by the commercial states; to this the committee properly replied that such taxes were paid by the ultimate consumer.

Armed with the reasonings of the committee, a deputation set out for Rhode Island on December 22, 1782. But no sooner had it left, than Madison received a letter from Virginia saying that the Virginian legislature had turned about and repealed its own ratification of the scheme. The young delegate was considerably embarrassed; the whole plan was wrecked, and the deputation for Rhode Island was overtaken on the way and brought back to Philadelphia, after half a day's journey.

## 2

Before the beginning of 1782 Madison was one of the foremost men in Congress, and in questions of finance and foreign affairs, probably the most influential and active member. Some of this influence was due to the fact that he knew more, and had more native ability, than the majority of the second-rate characters with whom he was associated. But a good deal of his prestige was owing to his exceedingly assiduous habits. Many of the members left Congress and went home upon various occasions; most of them took no great trouble in performing their duties. Sometimes weeks would pass with several states unrepresented, while the attitude of the ordinary Congressman is well reflected in that of the member who fulfilled the duties of secretary for foreign affairs. "The weather is murderous hot", wrote this gentleman, "and I cannot go up and down to the offices, in search of those authenticated papers which ought to be forwarded to . . . dignified officers abroad". Such lackadaisical habits explain in part why the country thought so little of its Congress.

Under such circumstances the laboriousness of Madison's life was extraordinary. It was the custom of Congress to refer nearly every matter, great or small, to a committee which consisted generally of three members, and a casual reading of the records



leaves the impression that Madison during much of his term served upon fully two-thirds of such committees. Attendance at the ordinary sessions of Congress thus formed only a part of his duties, and while the business before some of the committees was trivial, that before others was often of great delicacy and difficulty. In every variety of business save the purely military Madison took part. Meanwhile he sent long letters to Virginia each week, addressing them usually to Jefferson, Pendleton, or Randolph. Those to Randolph were partly written in cipher, which Madison found "extremely tedious".\* And as if all this were not enough he kept, from November 4, 1782, to June 21, 1783, a journal of the debates in Congress, together with the proceedings of some of the committees on which he served. Thus he bequeathed to posterity the only good record of those debates, while at the same time he acquired the skill in reporting which served him and the country so well when he undertook the same task in the Constitutional Convention.

Such diligence would hardly make him popular: "I take notice of a Mr. Madison, of Virginia," wrote Thomas Rodney in his Diary during March, 1781, "who with some little reading in the Law is just from the College, and possesses all the self conceit that is Common to youth and inexperience in like cases—but it is unattended with that gracefulness and ease which sometimes makes even the impertinence of youth and inexperience agreeable or at least not offensive".<sup>1</sup> Madison had actually been out of college for ten years, but it is plain that he had not yet conquered the diffidence with which he had begun public life. Of his personal affairs during these years practically nothing is known. We read of his spending an evening at the house of the Frenchman Marbois, and of another evening at Mr. Fitzsimmons', where with Gorham, Hamilton, Peters and Carroll he talked over the question of revenue, and the unruly sentiments of the army. During 1783 he did some studying of American history, and found leisure to court the favor of a young lady, as we

\* Randolph was unable to read some of the letters, and they have only been deciphered in recent years, by E. C. Burnett.

shall relate, but he had no time to write about such things. Perhaps it never occurred to him that his own thoughts and feelings, as distinguished from his part in the history of the country, would be of any interest.

The first serious task assigned to Madison by the Congress had nothing to do with finance, but nevertheless introduced him to a matter which continued to be of vital importance for more than twenty years, and which offered many instructive features. This was the navigation of the Mississippi. The main points of the situation were simple enough: Spain controlled the mouth of the river, and refused to make a treaty of alliance with the colonies unless they would consent to the closing of the river to United States commerce. The New England States and New York had no particular concern with Mississippi trade, but were very much interested in a treaty with Spain for the sake of their own Atlantic commerce as well as for war purposes. The western sections of Virginia, which included the present state of Kentucky, were of course vitally affected by any impediment to commerce down the river. In October of 1780 Madison drafted a long paper of instructions to Jay, who was in Spain, setting forth the arguments on which the United States based her claim to navigation; arguments which ranged all the way from natural law to political expediency. It was an able document.

By 1781 the situation in which the United States found themselves had somewhat changed. England occupied the states of Georgia and South Carolina, and there were fears that a separate peace between England and France might take place. The delegates of those southernmost states asked that the instructions be reconsidered. The legislature of Virginia itself voted that if a treaty could not be obtained without closing the Mississippi, then let the Mississippi be closed. For the time being, however, the negotiation was dropped, and the navigation question slumbered for a few years. Madison had had his first taste of sectional interests, and not his last troubles with the Mississippi problem.

An episode of the summer of 1782 is not without interest, in

view of Madison's later career, although it has no great historical importance in itself. In June, 1781, instructions had been drafted for Franklin, Laurens, and Adams to conclude peace. According to these instructions the negotiators were to preserve complete harmony with the French, and in the last resort to be guided by the decisions of the French ministry. But when the fortunes of war turned in favor of the United States, some persons were distressed by this undignified subordination to our ally. Of the men who wished to change the instructions the most active was Arthur Lee. Towards the end of July, 1782, he introduced a resolution for that purpose into Congress, and a warm debate followed, in which Madison figured as the leading defender of the French alliance and the original instructions. "Will it repair our loss of dignity in the eyes of the nations of Europe to convince them we are a people unstable in our councils and measures, governed wholly by circumstances, *abject and profuse* of promises when in distress and difficulties, but who veer about on a change of circumstances and on whose promises and professions no reliance can be placed? In a word . . . I am persuaded that a change in the instructions will not add to our security. I am persuaded that it will give umbrage to our ally, and by a seeming act of ingratitude or of diffidence awaken her suspicions and jealousies, and abate her zeal in our favor. . . ." <sup>2</sup> Doctor Witherspoon of Princeton, now a colleague of Madison's in Congress, supported his former pupil in an able speech, and Lee's proposal was staved off. For most of his life Madison was to be accused of servility to France, while large sections of public opinion eventually became convinced that he was no more than a willing tool of whatever government affected to rule the French. This time, at least, there is nothing to indicate that his policy was based on anything other than a decent sense of national obligation. He was intimate with Marbois during these days, and certainly disposed to be friendly to France, but it is hard to see how a self-respecting American could have felt otherwise.

Lee's motives were mixed. Although the reputation of this

strange man has been somewhat brightened by modern research, the refurbishing came too late to do Lee himself any good. He opposed every move towards a more energetic government, and distinguished himself by general cantankerousness. According to Madison, Lee's opposition to a stronger government sprang from his hatred of Robert Morris, and his distrust of France and the peace from his jealousy of Franklin. "The wickedness of that old man is beyond example",<sup>3</sup> wrote Lee of Franklin, and remarks such as this endeared him neither to posterity nor to many of his contemporaries. Whatever the actual justification for his views may have been, his associates put them down to jealousy, and some used them to illustrate the kind of petty wrangling which distracted Congress.

Factional divisions in Congress were in truth as apt to be caused by personal rivalries as by anything else, but there were a few special subjects which consistently split the membership into groups. Of these subjects the most important were the agitations of Vermont for admission as a state, and the controversy over the claims of various states to western territory. For years the inhabitants of Vermont, who refused to pay allegiance either to New Hampshire or to New York, provided discord in Congress. New York and New Hampshire opposed for obvious reasons the pretensions of such a new state, while all the southern states joined in the opposition because of their fear that another vote would be added to the "Eastern interest", and against their western lands. The remaining eastern states, on the contrary, rejoiced at the prospect of an addition to their influence, while Pennsylvania and Maryland sought support against the claims of the southern states to western territory. Madison himself opposed the Vermonters, of course, fearing among other things that the success of such a venture in the northeast might encourage the inhabitants of Kentucky to seek independence.

Interwoven with the Vermont question was the thorny subject of western lands. The small states insisted that these territories be ceded to the United States, that all might share in such

a source of power and revenue. Pennsylvania joined the small states, principally because many of her influential citizens had speculated in western lands, and would derive more profit if they were turned over to Congress than if they were left subject to the laws of the separate states. Congress wasted weeks in discussing these two matters, and Madison must have learned much about political bargaining before the happy day arrived when both were settled.<sup>4</sup>

## 3

Exasperating as these problems were, the subject of greatest importance continued to be that of finance. Morris started a Bank in January, 1782, and Congress exceeded its powers by granting the institution a charter. Madison protested mildly, and wrote of "the poisonous tendency of precedents of usurpation", but he was not disposed to wreck the sole visible hope of solvency. Only Arthur Lee and a few others opposed Morris at every turn, and as has been noted, their policy was attributed not to principle but to personal animosity. On the whole the members of Congress, sometimes to the disgust of their constituents, tended to assume more nationalistic ideas as they observed the state of affairs from their central vantage-point, and there was rather more unanimity of opinion among them than might have been expected. Even the delegates from Rhode Island had come around to favor the five per cent impost, until they were recalled, and replaced by more orthodox representatives.

This subject of finance is an excessively tedious one, but its very tediousness was of importance to the career of Madison. The interminable delays in facing the situation annoyed him fully as much as they can annoy us, and taught him a great deal more. Many a new-born political experiment had failed because of unsound economic foundations, and Madison knew enough to realise that the United States stood upon the brink of disaster for the same reasons. Early in 1783 a situation arose in which it seemed to many that the republican government of the country must perish.

There were two groups directly interested in the state of national finances. First was the army, grumbling for its back pay, and second were the public creditors, fearing not only for the interest, but even for the principal of their loans to the government. Each of these groups was well able to exert pressure upon Congress, and towards the end of 1782 they commenced operations. A letter from Washington, arriving about a year after the capture of Yorktown, reported that the army was most discontented, and surmised that there would be some "dangerous eruption" if payment was not forthcoming within the year. A month later the Pennsylvania legislature sent in a memorial on behalf of the public creditors, and threatened to overthrow the whole basis of the Confederation by appropriating money which the state had raised for Congress to the payment of interest on the national debt in Pennsylvania. Not much was done immediately about the army, but Madison was appointed upon a small committee to confer with representatives from the Pennsylvania legislature, and after some argument, they were persuaded to abandon their plans. The proposal for an impost was still before the states, and it was at this time that the deputation prepared to set out for Rhode Island, as previously mentioned. Then came the repeal of the impost by the Virginia assembly, the recall of the deputation which had barely started, and the apparent collapse of the whole financial plan.

These events took place in December, 1782. In January there came further demonstration of the serious state of affairs. On the 6th a memorial from the army was laid before Congress; on the 7th Morris told the members that there was no money in the Treasury; on the 8th he asked for a special committee from Congress to advise him. Madison served on this committee, which was informed by Morris that the Confederation must either immediately go bankrupt, or else draw bills upon money which France might in future lend, but which had not yet been promised. The second of these humiliations was preferred, and France, in the course of time, responded nobly.

Under these discouraging circumstances, a Grand Committee

of Congress received in conference representatives from the army. These emissaries did not spare the feelings of the members. They called attention to the ease and affluence in which the people at large lived, and remarked that the soldiers would not long behold this with patience. A considerable part of the army, they related, "were deeply affected at the debility and defects in the federal Govt", and also by the unwillingness of the states to give it more vigor, and they darkly hinted at the possibility of civil war. They demanded the "half-pay for life" which had been promised them, but were ready to commute it for any equivalent provisions which might be more convenient. Having explained their position, they withdrew, and the Grand Committee appointed a sub-committee, consisting of Hamilton, Madison, and Rutledge, "to report arrangements". Ten days later Morris announced his intention of quitting office on May 1 unless some adequate provision of funds should be made.

If history taught anything it taught that the outcome of such a situation as this would be the supremacy of the army and the end of civil liberty. Congressmen knew this as well as anyone, and on January 27, after a report from the Grand Committee, they listened without demur to James Wilson introduce again the subject of general funds, and commend a public debt as likely to cement the union. Hamilton also "went extensively into the subject". Next day Madison made an excellent speech, proving that state funds were insufficient, and that a general fund raised by authority of Congress was both necessary and desirable. He declared that such a fund was not contrary to the spirit of the Confederation nor subversive of the sovereignty and liberty of the states, and that the consequences of failing to establish it might well prove fatal to the union.

Opposition to the plan arose in part from a feeling that the fate of the five per cent impost had demonstrated the impossibility of persuading the states to adopt any similar measure. Madison was particularly embarrassed in this respect by the action of Virginia in repealing the impost. His remarks in his own justification were courageous, and are worth quoting and remem-

bering: "The State of Virg<sup>a</sup> . . . has withdrawn its assent once given to the scheme. This circumstance c<sup>d</sup> not but produce some embarrassment in a representative of that State advocating the Scheme, one too whose principles were extremely unfavorable to a disreg<sup>d</sup> of the sense of Constitutents. But it ought not to deter him from listening to considerations which in the present case ought to prevail over it. One of these considerations was that altho' the delegates who compose Congress, more immediately represented & were amenable to the States from which they respectively come, yet in another view they owed a fidelity to the collective interests of the whole. 2<sup>al</sup>y, Although not only the express instructions, but even the declared sense of constitutents as in the present case, were to be a law in general to their representatives, still there were occasions on which the latter ought to hazard personal consequences from a respect to what his clear conviction determines to be the true interest of the former; and the present he conceived to fall under this exception." Madison concluded by stating his belief that if the legislature of Virginia could have the same knowledge of public affairs which was available to a member of Congress it would reconsider its repeal.

It is almost incredible that the debate dragged on in a desultory fashion for nearly three months. Much of the discussion was upon methods rather than upon principles, but not all members were agreed that a general fund was necessary. Mercer of Virginia said that he would crawl on his bare knees to Richmond to avert federal taxation. Arther Lee was adamant. "No one", said he, "who had ever opened a page or read a line on the subject of liberty, could be insensible to the danger of surrendering the purse into the same hands which held the sword," and he was quite unmoved by Madison's laborious proof that Congress was actually a legislative as well as an executive body. Some urged that without an establishment for public credit Congress was but a rope of sand; Lee replied flatly that "he had rather see Congress a rope of sand than a rod of Iron".

Some points made in this debate are interesting anticipations



of the arguments heard in 1791. For example: "Mr. Lee wished to know whether by Loan office Creditors were meant the original subscribers or the present holders of the certificates". This query was hastily silenced by Fitzsimmons and Gorham, but revived in 1791 by Madison himself. It is noteworthy also that Mercer declared in this earlier day that the funding of debts tended "to establish & perpetuate a monied interest in the U. S.; that this monied interest would gain the ascendance of the landed interest, would resort to places of luxury & splendor, and, by their example & influence, become dangerous to our republican constitutions". To this prophet of woe it was Madison who replied with impatience: "He said the public situation was truly deplorable. If the payment of the capital of the public debts was suggested, it was said & truly said to be impossible; if funding them & paying the interest was proposed, it was exclaimed ag<sup>st</sup> as establishing a dangerous moneied interest, as corrupting the public manners, as administering poison to our republican constitutions." \*

Naturally the grievances of the army were not assuaged by torrents of words, especially when their half-pay was directly refused them by a vote in February. It seems beyond doubt that their discontent was supported and encouraged by secret activities of the public creditors.<sup>5</sup> On March 10 there was circulated in the camp an anonymous address to the army, recommending that the soldiers use more forceful methods of obtaining their desires. The situation was extremely critical, but the men were calmed by Washington on the 15th and adopted resolutions of loyalty. Congress heard of the troubles on the 17th, and Madison was sufficiently alarmed to write that "The state of our foreign affairs and of the army combined with the difficulty and uncertainty of providing for justice & for our finances

\* The sentence which follows the section quoted should not be omitted, for it demonstrates what was to be the real difference between Madison and Hamilton on this subject in 1791. "He said he wished the revenue to be established to be such as would extinguish the capital as well as pay the interest within the shortest possible period; and was as much opposed to perpetuating the public burdens as any one."

& with the approaching exit of Morris, give a peculiar solemnity to the present moment. God send us a speedy & honorable deliverance from every danger."

It is generally supposed that the United States were at this moment near to monarchy, and that Washington might easily have assumed dictatorial powers had he wished. In his old age Madison commented upon this danger, which he thought had been overestimated. He believed that the people of the country had been far too numerous, and far too much devoted to republican government, to tolerate any interference with the system by the army, and that Washington himself could not have won the allegiance of the people if he had accepted the designation of king. We have no way of knowing the truth, of course, but it may be remarked that Madison was a little less sure of the permanence of republican forms of government during the 1790's, when he and Jefferson were denouncing the "royalist" machinations of Hamilton and John Adams.

A catastrophe being thus once more averted by Providence and George Washington, Congress labored on. A committee consisting of Gorham, Hamilton, Madison, Fitzsimmons, and Rutledge had been appointed on February 21 to draw up a financial plan. They worked diligently, made numerous reports to Congress, and finally on April 18, a complete scheme was passed, the only negative votes being those of the Rhode Island delegates, on whom federal arguments made no impression, and that of Hamilton, for whom the measure was insufficiently drastic. The plan proposed a tariff on certain specific articles of commerce, the proceeds to be applied only to the public debt, and not to current expenses. Collection was to be by state officers, and the duration of the measure was limited to twenty-five years. An amendment to the Articles was also submitted, by which taxes were to be apportioned not according to the value of land, but according to population. This change had seemed desirable because of the extreme difficulty in deciding who was to appraise the land, and how it should be done. In counting the population, five negroes were to be considered as three persons for purposes

of taxation, a ratio suggested by Madison after the first of many famous wrangles over the question.

The scheme was sent out to the various states, together with an address written by Madison presenting the arguments for the measure. This address was an admirable piece of work, temperate, reasonable, appealing somewhat to the idealism of the republican experiment and to Justice and Equity, but keeping mainly to a calm presentation of the facts. It is to be noted that none of the arguments resembling a doctrine of implied powers was used, in fact nothing likely to injure the dignity or arouse the fears of any state. Madison was extremely competent in such a task as this.

Yet his efforts and those of Congress were in vain. The states hesitated, made exceptions, argued. Impatiently Madison waited to hear what Virginia would answer, and his disappointment was great when she attached irritating conditions to her ratification. As the months and years went by, one state after another adopted the measure, but when the Constitutional Convention was summoned in 1787, New York was still hanging back. There can be no doubt that if the states had speedily accepted the financial plan of 1783 there would have been no possibility of writing a new constitution in 1787, and the history of the country would have been considerably altered.

In June a body of discontented soldiers from the camp at Lancaster descended upon Philadelphia, breathing maledictions against Congress and having some vague idea of raiding the Bank. On Saturday the 21st they drew up in formation outside the hall where Congress was sitting, but indulged in nothing more destructive than offensive language and gestures of defiance, until "spirituous drink from the tippling houses adjoining" was liberally served out to them, and gave some promise of producing violent results. Congress boldly remained in session until three o'clock, and then the members went home unmolested. They met again in the evening, manifested some resentment against the authorities of Pennsylvania for failing to provide better protection, and eventually voted to go to Princeton, where they

could maintain their dignity at the sacrifice of the comforts of Philadelphia. Since most of the army had gone home on furlough, the whole affair was disgraceful rather than dangerous, and provided an example for those interested in demonstrating the weakness of the Confederation.

Two contradictory opinions based upon the experiences of the Revolution developed in early American history. Many men were chiefly impressed by what they commonly called the imbecility of the Confederation. Thus Madison, Washington, Marshall and Hamilton felt that the later years of the Revolution demonstrated conclusively that too little power in government was fully as unsatisfactory as too much. The notorious inefficiency of the war-time organization, the injustice and exploitation which seemed to have free rein under a government too feeble to exercise authority: these were the facts that filled their minds.

But there was another way of looking at it, and a different moral to be drawn. By concentrating on the fact that the United States had, after all, won everything they had fought for, many men of respectability and intelligence came to attach an undeserved virtue to the habits and institutions of those years of war. It began to seem that patriotism had been higher, and republicanism purer in those times. It appeared to be proved that there was in the people a capacity for service and sacrifice, for justice and wisdom, which would be shown in times of crisis, and which made strong government unnecessary. The possible uses of such a government were more than outweighed by its dangers, for none of the evils of a loosely organized society were as great as the infringements upon personal liberty which were inevitable concomitants of a vigorous political authority.

Madison thought all this over carefully, as was his wont, and the conclusion to which he was led has been made plain. Taken in defiance of the weight of Virginian opinion, it was the most important decision of his early career. It set him on the way towards the Constitutional Convention.

CHAPTER III  
*VIRGINIAN AFFAIRS*  
1783-1787

**D**ESPITE all the tribulations of the winter of 1782-1783, Madison found time to fall in love. So far as we know it was his first experience of the kind, and if tradition can be believed it was instructive. A certain Colonel Floyd, congressman from New York, and a friend of Jefferson's, brought with him to Philadelphia his daughter, a pretty girl of sixteen. When Floyd went home, early in May, Madison travelled along with him as far as Brunswick, presumably not in order to be near the Colonel. By summer, he had ventured to hope for matrimony. But Miss Floyd turned him down, and Jefferson administered consolation: "I sincerely lament the misadventure which has happened, from whatever cause it may have happened. Should it be final, however, the world still presents the same and many other resources of happiness, and you possess many within yourself. Firmness of mind and unremitting occupation will not long leave you in pain. No event has been more contrary to my expectations, and these were founded on what I thought a good knowledge of the ground. But of all machines, ours is the most complicated and inexplicable".

Legend has embellished this simple tale, and made of it a story which, if not literally true, is by no means improbable. According to this version Madison's method of paying court was to sit in the boarding-house parlor, talking politics with Colonel Floyd. Meanwhile Catherine gave ear to the blandishments of an obscure parson. When Madison, having completed his ground-work with the father, turned to the daughter, it was too late, and the parson had won her heart. Madison received a letter of dismissal sealed with a piece of rye dough, and thus unhappily ended his romance. He consoled himself, during the

ample congressional leisure of 1783, by studying the origins and early history of the Articles of Confederation.

The laws of Virginia disqualified a delegate to Congress from serving more than three years in any period of six. Madison's term, therefore, should have expired in the autumn of 1782, but in the spring of that year the law was repealed in order that he might serve until November, 1783. He thus stayed four years in Congress, and it was proposed to re-elect him for another half-year, extending to March, 1784. This suggestion he discouraged, and it was not carried out.

Congress, which had retreated to Princeton in June, 1783, after the mutiny, remained there through the summer and fall. The village was too small to accommodate the members; Madison and Joseph Jones lived in a room "not 10 feet square", and slept in the same bed. Madison found it hard even to write his letters, and insisted that Pennsylvania had been sufficiently apologetic for her neglect, and that Congress should return to Philadelphia. But the members fussed and argued about it, and some of them so hated Robert Morris that they wished to stay away from his city, while others thought by sufficient persistence to bring Congress to their own home towns. Madison had expected to go to Orange in the summer, on account of the ill health of his mother, but she recovered, and he postponed his departure until November. For the first time since 1776 he was wholly at leisure.

Since the time of Charles II it had been fashionable in the best circles for those who had any mind to devote it at times to Natural Science. Universities were still generally hostile to anything outside of their time-honored curriculum, which had no place for science, but the apparatus necessary for scientific work had not yet become so inaccessible as to frighten the layman. There was no school, guild or mystery into which initiation was necessary, and the whole vast field which science had disclosed was open to the joyous invasion of everyone. Politicians, farmers, doctors, merchants, and clergymen solemnly devoted their spare time to the investigation of natural phenomena, and re-

joined in a sublime faith that they had at last discovered the highway to Truth.

All this amateurish activity, besides discovering an occasional man of scientific genius, accomplished a good deal by collecting great masses of information. In 1749 the Frenchman, Buffon, began to publish his *Natural History*, which came out in numerous volumes until 1804. This enormous work brought together all the various knowledge which had accrued here and there, ornamented it with pictures, and popularized it by an excellent prose style and a tendency to daring generalizations. The first twenty-two volumes were devoted to quadrupeds, the next nine to birds, and as they appeared the literati of the whole western world fell to watching the habits and measuring the dimensions of the animals in their vicinity, comparing them with the statistics of Buffon, and quarrelling over the results. The patriotic indignation of all good Americans was aroused when a contemporary of Buffon, the Abbe de Pauw, stated as a general rule that the animals, and even the men of America were smaller and poorer than those of Europe. To Jefferson was largely due the triumphant refutation of this heresy. On one occasion he sent an urgent call home, and a small army was dispatched into the woods in the dead of winter to procure a moose. The animal was killed, and its skeleton sent at great expense to Paris, where Jefferson exhibited it to the astonished savants and won his point.

Officers of the French army quartered at Williamsburg brought with them a zeal for this kind of thing, and spread it among the native inhabitants. Madison's cousin, the President of the college, wrote him about it: "Several of y<sup>e</sup> Officers who have a Turn for Nat History have made Excursions into y<sup>e</sup> Country beyond y<sup>e</sup> Mountains. Chattelleux has visited, & ordered a Plan or View of y<sup>e</sup> Natural Bridge to be taken. D'Aberville has examined & found out y<sup>e</sup> Arcana of y<sup>e</sup> Opossum—and also that y<sup>e</sup> Bones of y<sup>e</sup> Mahmouth, or y<sup>e</sup> Incognitum are common in y<sup>e</sup> lower Parts. We had always taken them for Fish Bones . . ." <sup>1</sup>

The classifications of Buffon were replaced by others, and scientific technic soon became too exacting for the amateur. But this small participation which was granted to the layman opened up to him great vistas of thought. It formed his habits, and dictated his ideals. It imparted a certain dignity to the materialistic tendencies inherent in ordinary men, for it promised that the secrets of God would be revealed to those who should be assiduous in observation and skillful in measurement, whatever their smallness of soul. In particular, the American enlightenment was remarkable in this way. Americans from Cotton Mather to Franklin had been interested in science, and had done some experimenting with excellent results, while the country had produced one first-rate thinker in the person of Jonathan Edwards. Yet no one in America had penetrated to the further reaches of European thought, either scientific or philosophical. Our ancestors scarcely knew of the existence of Descartes and Leibnitz, and did not dream of the possibilities of higher mathematics. They were practical in their tastes, having no use for metaphysical abstractions. Perhaps even the Constitution might have been different if Jefferson and Madison and their fellows, instead of subscribing to the works of Buffon, had been reading and understanding the works of Kant.

No sooner had Madison returned to Orange than he wrote Jefferson a long plan for testing Buffon's theory of the central heat of the earth. It is a fair sample of the manner in which he went about such things. Since the earth is an oblate spheroid, rather than a perfect sphere, as had just been proved by two French expeditions: "It would seem therefore that the difference of distance from the center at the Equator & at the highest latitude that may be visited must be sufficient to produce a discoverable difference in the degrees of any heat emitted equally in every direction from the center: and the experiment might be sufficiently diversified to guard against illusion from any difference which might be supposed in the intermediate density of different parts of the earth. . . . Nay the extent of the U. S. com-



puting from the  $31^{\circ}$  of lat: to the  $45^{\circ}$  only makes a difference of 7 miles in the distance from the center of the Earth; a greater difference I suppose than is afforded by the highest mountains or the deepest mines or both put together."

When Jefferson went to Paris he became an invaluable source of scientific information and learned gossip, and was also in a position to send his friend books and instruments. "Mr. Mazzei tells me," wrote Madison to Jefferson, "that a subterraneous city has been discovered in Siberia, which appears to have been once populous and magnificent." The Empress of Russia, he related, had presented Buffon with a six-foot specimen of a golden chain found about the neck of an equestrian statue in the city. Cannot Jefferson find out more about this wonder? Like all men of science Madison procured a thermometer and barometer in order to keep a "meteorological diary". He asked Jefferson to send him a special kind of clock, a pedometer, and a telescope to be introduced into a walking stick, with a scale of inches engraved upon the stick. "I recd. the two pamphlets on animal magnetism & the last aeronautic expedition, together with the phosphoretic matches. These articles were a great treat to my curiosity." Thus Madison thanked Jefferson for a shipment which arrived in 1785.

In the spring of 1786 he made a complete examination of an animal which he called a "Monax", in order to see whether it was the "Marmotte" of Buffon. The teeth were counted, measurements made, its temperature taken, and certain minute differences found. In June of the same year he took careful measurements of a dead female weasel, and arranged his statistics in parallel columns with Buffon's "Belette" and "Hermine". In 1785 he considered the problem of standard weights and measures, approving the suggestion of some "ingenious and philosophical men, to wit, that the standard of measure s<sup>d</sup> be first fixed by the length of a pendulum vibrating seconds at the Equator or any given latitude—& that the standard of weights s<sup>d</sup> be a Cubical piece of Gold or other homogeneous body, of

dimensions fixed by the standard of measure". From such a scheme he even hoped there would follow a universal standard for all nations, as well as for the United States.

Writing to Jefferson, again, in 1786: "I have a little itch to gain a smattering in chymistry. Will you be kind eno' to pick up some good elementary treatise for me, with a good dictionary of moderate size, unless the chymical volume in the encyclopedie should be judged a competent provision. Morveau's Elements I observe are quoted with great respect by Buffon. I wish also to get his two Boxes, called *Le necessaire chimique*. They are described in the *Bibliothèque physico-economique* for 1784. p. 134. where the maker in Paris is also referred to. I project this last indulgence on the supposition that the whole apparatus, including the contents of the Bottles will not cost more than a couple of Louis." This "little itch to gain a smattering" in various subjects made life interesting, yet it cannot be said that the Founding Fathers got far with their science. They invented new-fangled writing-tables, dumb waiters, and other gadgets, but they tended to be over-optimistic, and to hail such achievements as Triumphs of Philosophy. They believed thoroughly in progress. They believed in the capacity of man to think, and to govern his actions by Reason rather than by emotion. It was a good world to them, but above all it was becoming a better world. "Nature," wrote Madison to Lafayette, "seems on all sides to be reasserting those rights which have so long been trampled on by tyranny and bigotry. Philosophy & Commerce are the auxiliaries to whom she is indebted for her triumphs." What could be more hopeful!

Scientific investigation, however, was no more than an avocation. Madison's real business was to read law, and to study political science. Jefferson gave him the use of the Monticello library, although the winter was too severe to permit easy communication. He was somewhat handicapped by a lack of authorities in his own house, but the traditional guide of law students Coke on Littleton, was his chief companion during the winter. A greater handicap, according to his own idea, was the lack of

"some living oracle for occasional consultation". But he ploughed patiently on through his books, without much thought of becoming a professional pleader. "My wish is if possible to provide a decent & independent subsistence, without encountering the difficulties which I foresee in that line", he wrote in 1785. "Another of my wishes is to depend as little as possible on the labour of slaves." It is most likely that he had actually set his course towards a public career. For a long time he had been giving some desultory attention to law, meanwhile protesting that he would never practice. Having given up his early ideas of entering the ministry, if indeed he ever had any such ideas, he found that his health might after all permit some kind of useful life. His experiences had shown him his aptitude for politics, and doubtless awakened his ambition. The study of law was an almost indispensable preparation for political life in early America. And so he studied law, but modestly refrained from committing his real hopes to writing.

More interesting, in view of ensuing developments, is his study of political theory. To Jefferson he wrote, ordering books from Philadelphia, in the spring of 1784: "I will only particularize my wish of whatever may throw light on the general constitution & droit public of the several confederacies which have existed. I observe in Boinaud's catalogue several pieces on the Duch, the German, & the Helvetic. The operations of our own must render all such lights of consequence. Books on the Law of N. & N. fall within a similar remark. The tracts of Bynkershoek, which you mention I must trouble you to get for me & in french if to be had rather than in latin. . . . Is not Wolfius also worth having." In 1785, when Jefferson was in France, Madison renewed his requests for books on confederacies, the Law of Nations, and the natural and political history of the new world: "to which I will add such of the Greek & Roman authors where they can be got very cheap, as are worth having and are not on the common list of School classics. Other books which particularly occur are the translation (French) of the Historians of the Roman Empire during its decline, by—Pascal's Pro-

vincial letters—Don Ulloa in the Original—Linnæus best edition Ordinances Marines—Collection of Tracts in french on the Oeconomics of different nations, I forget the full title. It is much referred to by Smith on the wealth of Nations. I am told a Mons<sup>r</sup> Amelot has lately published his travels into China, which if they have any merit must be very entertaining. . . .”

Thus he steadily built up that sound structure of scholarship in politics for which he was to become renowned even in his own time. The usual authorities, such as Grotius and the much-quoted Vattel, were of course familiar to him. Though he seldom mentioned it we know from the above quotation and from his general views upon economic questions that he was an assiduous student of Adam Smith, probably rather more than of the French economists. There is no direct evidence that he read Gibbon, though later in life he sent for an edition of that author's miscellaneous writings, which indicates that he must have been familiar with the *Decline and Fall*. Like others of the eighteenth century he could see no sense in the Middle Ages, when neither Commerce nor Philosophy had helped out struggling Nature. He lived when men looked to the future rather than to the past, and hopefully tried out the same philosophy in studying nations which had worked well in measuring weasels. The “belles-lettres” of his youth were forgotten.

He was fortunate in living at a time when scholarship was still considered respectable in a politician. In the three spring elections of 1784, 1785, and 1786 he was chosen by the citizens of his county as their representative in the Virginia House of Delegates. With a record of arduous and honorable service in Congress, he now entered the legislature not as a young and timid man, but as a tried and distinguished leader. “The assembly . . . have formed great hopes of Mr. Madison,” wrote William Short to Jefferson, “and those who know him best think he will not disappoint their most sanguine expectations.”<sup>2</sup>

Virginian politics had seen changes since Madison went to Congress. From about 1779 the radical party of Jefferson had been outnumbered and outgeneralled, and a stop had been put to

its advanced program of legislation. Patrick Henry, Edmund Pendleton, and later John Marshall brought the conservatives to a position of dominance. The most striking points of their policy were a deep animosity towards the Tories, a tendency to postpone the settlement of the financial problems of Virginia, and a refusal to ratify the impost proposal of Congress. From 1782 to 1784 they were almost unopposed, for although R. H. Lee led an opposing oratorical team in the assembly, he was actually in agreement with Patrick Henry upon nearly all major questions. But the elections of 1784 showed the beginning of a reaction towards the Jeffersonian policies, and the interesting situation which developed is explained in a letter from Edmund Randolph to Jefferson: ". . . the increase of new members has introduced some of the children of the revolution who labor to satisfy themselves, and disdain dependency on the dictum of any individual or faction . . . I suspect, however, that these new legislative guests will want a general to enable them to make head against those of the other parties, who will not fail to impeach them with an affectation of novelty when they only press the result of liberality and reflection. This renders it probable that our friend of Orange will step earlier into the heat of battle than his modesty would otherwise permit. For he is already resorted to as a general, of whom much has been preconceived to his advantage."<sup>3</sup> Madison thus found awaiting him the position of leadership which had been vacated by Jefferson, and he took up the battle against the conservative planters of eastern Virginia. The most important issues were those of English debts, religion, state regulation of commerce, and the new code of laws which had been drawn up by Jefferson, Wythe and Pendleton.

## 2

It has been maliciously said that the Whiggism of Virginia resulted from the fact that her first citizens were heavily indebted to British merchants, and saw in the Revolution a hope of relief. This is doubtless an exaggeration, but it was certainly

true that the Virginia planter had been in the habit of running up enormous accounts with English traders. The most luxurious planters were greatly in arrears with their payments, and bankruptcy perpetually stared them in the face. During the Revolution these debts had not, of course, been paid, and in addition the state of Virginia had realized large sums from the confiscation of the estates of Loyalists. In the treaty of peace, there was a provision that all impediments to the legal recovery of the debts should be removed, and that the states should be recommended to make provision for Loyalists who had lost their estates. Scant attention was paid to the latter of these two clauses, but about the first there waged an interminable war of debate and recrimination. The English had not abandoned the frontier posts which they had agreed to abandon, and they had not made restitution for some negroes which they had taken; therefore, the state of Virginia would not open her courts for the recovery of debts which her citizens owed to the British.

There was, after all, nothing much to be said against the obligation of paying just debts. Madison's position was that they should be paid without question. But the debates brought to his mind a more significant concern. Did Virginia have the right to refuse to fulfill a part of the treaty which had been ratified by the United States Congress? Did she have a right independently to judge whether England had fulfilled the treaty or not, and to act on her judgment? Obviously she had no such rights, if the Confederation was to mean anything whatever, and thus the matter was one of larger politics, of the powers of Congress and the Confederation, as well as of simple justice. Madison contended that the question of British fulfillment of the treaty should be referred to Congress, and if the frontier posts were not evacuated, then Congress might recommend to the states that they retain a certain proportion of the debts due to Englishmen. But since Virginia was poor, her trade bad and growing worse, and immediate payment in full manifestly impossible, he favored a provision permitting the debtors to pay in installments.

In the legislature of May, 1784, his proposal got nowhere, being defeated largely by the influence of Patrick Henry. But in the autumn session it received a more favorable hearing, while Henry was absent. The House passed it, the Senate hesitated, there was a conference between committees of the two houses, and an agreement was reached. This brought them to the day before adjournment. On that evening, some of the members crossed the river to Manchester, with the intention of returning next morning. During the night the river froze, and the absentees could not return. All next day the river remained dangerous, although a canoe got across to make inquiries. Meanwhile the members who remained in Richmond grew more and more impatient to go home. They waited until the morning of the third day, when their patience would bear no more, and the legislature adjourned without passing the bill. In the session of 1785-1786 it was again defeated by direct opposition. In 1787, after Madison had left the legislature, a bill repealing the laws preventing the collection of debts was passed, but destroyed by amendments. The whole business called forth most acrimonious controversy throughout all the states. George Mason said that he heard people in Virginia ask why they had fought the war, if debts still had to be paid after it had been won. Since the debtor classes in the South were by no means the poorer classes, Madison was thrown directly into a party of those who stood for the sanctity of contracts and of national treaties, even against the immediate interests of the planters. It is proper to add that most of the distinguished men of Virginia were with him, and many of them were burdened with debt.

## 3

The question of the relationship between religion and the state in Virginia had been dropped since 1779, when Jefferson's bill for the complete disestablishment of the church was defeated, although compulsory taxation for its support was abolished. In the early 1780's a proposition was made to levy a gen-

eral assessment for the support of all Christian denominations. Each person was to be taxed, but was to have the privilege of indicating the sect to which his money should be given. The defeat of this scheme was largely due to the efforts of Madison, and was one of his most justly celebrated achievements.

The legislature first considered this matter in the May session of 1784, when several petitions in favor of an assessment were reported by the Committee on Religion, of which Madison was a member. Nothing was done about them in the House, but there appeared at the same time a bill for incorporating the Episcopal Church, making it capable of holding and acquiring property, allowing it to pass canons and by-laws, and providing that no minister, when once appointed by the parish, should be removed but by action of the Convocation. This, says Madison, "was preserved from a dishonorable death by the talents of Mr. Henry". The party favoring the incorporation and assessment had all the arguments of precedent and tradition on their side. They claimed that in maintaining the Church the state was supporting the best agent of law, morality, and general public decency. They argued with reason that a minister dependent upon his parish for his job and his salary, would tend likewise to be dependent upon it for his opinions, as well political and social as religious. The party of conservatism and order, and the forensic talents of Henry, were on the side of an establishment. Madison met and defeated them by a combination of philosophical argument and political strategy as creditable as anything in his career.

In November of 1784 a resolution in favor of a general assessment was passed by a vote of 47 to 32, and a committee was appointed to draw up the bill. Madison, as we know, had strong convictions on the subject, and prepared his speech in opposition with great care. His notes, which have been preserved, are written on an odd scrap of paper, in a microscopic hand. He contended that religion was not within the province of the civil authority; that the true question was not "Is Religion necessary?" but "Are Religious Establishments necessary for Reli-



gion?" This latter question he answered in the negative, and insisted, with copious references to history, that establishment tended to corrupt true religion. He then attacked the assessment as a piece of civil policy, saying that it would drive people away from the state, and prevent the immigration of sober and industrious heretics who would otherwise look to Virginia as an asylum. He denied that the lawless habits of Virginians would be improved by an establishment, for the real cause of trouble was not the feebleness of the Church, but the disorganization resulting from war, bad laws, bad administration of justice, and economic difficulties which were common to all states. The true remedy was to be found in laws to cherish virtue, in the personal example of those who voluntarily associated themselves for the exercises of religion, and in the education of youth. He then pointed out that as Christian churches only were to be supported, it would eventually be for the courts of law to decide what was Christianity and what was not; what edition of the Bible was authoritative, what books canonical, what apocryphal, what doctrines were necessary and what were not. Here his theological training proved useful. After remarking that the civil authority would finally be judging between orthodoxy and heresy, which would dishonor Christianity, he concluded with a panegyric upon the Christian religion and the Declaration of Rights.

But still the legislature, and apparently a majority of the people, favored the assessment. Madison let the incorporation bill go through, as a gesture to quiet the conservatives, but he managed to fight off a final decision on the assessment, which was postponed until November, 1785. Furthermore, the bill was altered to the extent that when a person failed to specify the denomination for which his tax was to be used, it was to go towards the support of a school in the county. Thus it became really a very mild sort of establishment, and as Madison himself wrote, "it is chiefly obnoxious on account of its dishonorable principle and dangerous tendency".

The bill was ordered to be printed for the consideration of the people at large, and there followed an achievement which might

well fortify the Jeffersonians' belief in democracy. George Nicholas wrote to Madison in April, 1785, asking him to join in a campaign of protest and of popular education against the bill, a proposal which Madison had previously discouraged. But, said Nicholas, a majority of the people was against the bill, and unless this were made clear by petitions it would be denied by the conservatives. He asked Madison to draw up a form of remonstrance, and promised to see that it was distributed through the counties. Madison agreed, and by the first of July had completed his task. Nicholas was delighted. The remonstrance was printed by the Phoenix Press of Alexandria, sent about the state "thro' the medium of confidential persons", and signed by thousands of citizens. Public opinion was gradually aroused to a realization of the issue which was before the legislature.

The point is, that this was no campaign of soap-box oratory and political machination, but actually one of education. This is made plain by the remonstrance<sup>4</sup> itself, which is not only a masterly defense of Madison's thesis, but a choice piece of political theory. After repeating the statement in the Bill of Rights that "Religion or the duty which we owe to our Creator and the Manner of discharging it, can be directed only by reason and conviction, not by force or violence", he proceeded to prove this point by reasoning from the school of Locke. The opinions of men, said he, since they depend only on the evidence of their own minds, cannot follow the dictates of other men. Therefore, man cannot alienate his right to the exercise of religion according to the dictates of his own conscience. But there is still a higher reason: "It is the duty of every man to render to the Creator such homage, and such homage only, as he believes to be acceptable to him. This duty is precedent both in order of time and degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe: And if a member of Civil Society, who enters into any subordinate Association, must always do it with a reservation of

his duty to the general authority; much more must every man who becomes a member of any particular Civil Society, do it with a saving of his allegiance to the Universal Sovereign. We maintain therefore that in matters of Religion, no man's right is abridged by the institution of Civil Society, and that Religion is wholly exempt from its cognizance".\*

This curious combination of politics, Protestantism, and Locke being doubtless too complex for the majority of the people, the tract was continued in a less elevated manner. The third argument is interesting: "Because, it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of [the] noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. . . ." The same authority which may establish Christianity, he went on to say, may establish with the same ease any particular sect of Christians, and thus become highly oppressive.

The historical arguments against an establishment which Madison had made in his speech to the Legislature were repeated in the Remonstrance. The idea that a Civil Magistrate might employ Religion as "an engine of Civil policy" he denounced as "an unhallowed perversion of the means of salvation". If the influence of Establishments on true religion had been bad, their influence on civil society had been worse. "In some instances they have been seen to erect a spiritual tyranny on the ruins of Civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no in-

\* If this reasoning seems antiquated, compare the words of Chief Justice Hughes in the case of *United States v. MacIntosh*, which came up in 1931: ". . . in the forum of conscience, duty to a moral power higher than the State has always been maintained. The reservation of that supreme obligation as a matter of principle would unquestionably be made by many of our conscientious and law abiding citizens. The essence of religion is belief in a relation to God involving duties superior to those arising from any human relation."

stance have they been seen the guardians of the liberties of the people."

His thirteenth reason might well have been taken more often to heart in our history: "Because attempts to enforce by legal sanctions, acts obnoxious to so great a proportion of Citizens, tend to enervate the laws in general, and to slacken the bands of Society. If it be difficult to execute any law which is not generally deemed necessary or salutary, what must be the case where it is deemed invalid and dangerous? and what may be the effect of so striking an example of impotency in the Government, on its general authority." He then pointed out that the Legislature, in the current state of representation, certainly did not reflect the real opinions of the majority of the people, and he concluded by declaring that if the legislature were allowed to infringe this one of the liberties which had been declared in the Bill of Rights, then it might with equal authority destroy trial by jury, freedom of the press, and all the most cherished institutions of liberty.

The campaign was successful; the Remonstrance did its work. It must be remembered that not the Episcopal church alone, but also the strongest of the dissenting sects, such as the Presbyterians, were in favor of the assessment. According to Madison they were "as ready to set up an establishment which is to take them in as they were to pull down that which shut them out". They were, it is true, somewhat disgruntled by the advantages bestowed upon Episcopalians by the incorporation bill, and therefore ready to be converted from their belief in the assessment. Yet the main credit must go to Madison and his colleagues, who were able to formulate and guide public opinion in accordance with the most advanced ideas of the time. When the legislature met in the autumn of 1785, the general assessment bill was smothered under the multitude of signatures to the remonstrance. Seizing this favorable moment, Madison reintroduced Jefferson's bill for complete separation of Church and State, and it was passed. There had been accomplished a complete reversal of policy. Jefferson's law was regarded by many

as completely subversive of the interests of morality and religion; but by the radicals in America and in Europe it was hailed with delight as a model of advanced legislation. It was translated into French and Italian, and Jefferson asked that his tombstone might commemorate his three greatest achievements, the Declaration of Independence, the University of Virginia, and the statute of religious freedom.

## 4

On the two questions of internal improvements and the regulation of state commerce, Madison identified himself with the interests of the west against those of the east, as he had so often done in other legislative affairs. The internal improvements contemplated were to make the James and Potomac rivers more easily navigable, and ultimately to open a trade route through the mountains from Virginia to the Ohio. The immediate policy, however, was merely to make it easier for inhabitants of the Blue Ridge section to get their products to market. Only a few individuals, including Washington, Jefferson, and Madison, saw in such projects the possibility of connecting the west with the east, binding together the nation, and making Virginia an outlet for the trade of the Ohio valley, that same trade which was later to pass through New York when the Erie Canal was built. The Tidewater men, on the other hand, could see little benefit to themselves from spending money on the improvement of the upper reaches of their rivers. Through the influence of Washington, legislative support was obtained, but the state subscribed for only a modest amount of the stock of each company.

Madison was more intensely interested in a scheme for improving Virginian economic conditions by commercial regulations. There were no important commercial towns in Virginia. The planters bought directly from importers, sometimes directly from English ships, which came up to their own wharves. There were very few retail merchants in the state, and the economic services performed by towns were done for Virginians by the

cities of Baltimore and Philadelphia. Tidewater men liked this well enough. It seemed to them that by dealing directly with the English merchant a good deal of middlemen's profit was eliminated, and they were exceedingly well satisfied with the trade and credit arrangements which the English made with them.

But the western men had other views. They wished to limit the foreign trade of Virginia to a very few specified ports, thus building up urban regions to which they could sell their agricultural products, and from which they could buy at a lower price the articles they were currently forced to get from Baltimore or Philadelphia. Madison favored this plan, and wished two ports only, Norfolk and Alexandria, to be established. Since the trade of his own plantation was done through Fredericksburg, his campaign was as disinterested as a political crusade well can be. He collected some "undeniable facts, namely, that goods are much dearer in Virginia, than in the States where trade is drawn to a general mart, that even goods brought from Philad<sup>a</sup> and Baltimore to Winchester & other W. & S. W. parts of Virginia are retailed cheaper than those imported directly from Europe are sold on tide water; that generous as the present price of our Tob<sup>o</sup> appears, the same article has currently sold 15 or 20 per C<sup>t</sup> at least higher in Philad<sup>a</sup> where being as far from the ultimate market it cannot be intrinsically worth more". And one of his most pressing complaints was "that scarce a single vessel from any part of Europe, other than the British Dominions, comes into our ports, whilst vessels from so many other parts of Europe, resort to other ports of America, almost all of them too in pursuit of the Staple of Virginia".

The Tidewater members were unconvinced. They liked the old system and they worked hard to preserve it. They "are busy", wrote Madison, "in decoying the people into a belief that trade ought in all cases to be left to regulate itself". Such potent men as George Mason agreed with them, and when the bill came up it was amended so as to increase the number of ports to five. This practically destroyed any possibility of achieving its objects, and but little more attention was paid it. Had it passed,

and proved effective, the story of Virginia's attitude towards the new Constitution might have been different.

Of course Madison did not approve of the general principle of commercial regulations, except in such specific cases as that of poverty-stricken Virginia. In fact, he did not much approve of commerce. "Wherever Commerce prevails," he wrote to Randolph, "there will be an inequality of wealth, and wherever the latter does a simplicity of manners must decline." As for towns, he early announced that they were full of impertinent fops, who bred in them as naturally as flies in the shambles. Unfortunately for his consistency, Madison knew as well as anyone that the towns which bred impertinent fops bred also men of learning and taste, while he had himself said of this Commerce which corrupted the simplicity of manners that, with Philosophy, it helped Nature reassert her rights against tyranny and bigotry. During the decade of the 1780's Madison tended to forget, in practical life, that commerce corrupted manners, but from the end of that decade to the end of his life that corruption was forcibly and almost continuously brought to his attention.

## 5

Perhaps the most laborious task of Madison's term in the legislature was the attempt to put through the new code of laws which Jefferson and his committee had drawn up, and which had ever since been ignored. During his first session, in 1784, he managed to have it printed, but the legislature penuriously limited the printing to 500 copies. In 1785 he made a great effort to get the whole code passed. It consisted of some 126 separate bills, and three days out of each week were assigned to their consideration. All went well until about half of the number had been passed, when the bill concerning crimes and punishments was reached. This abolished the death penalty for all crimes except those of blood, and it provoked such great discussion that it was postponed to the next session. At the end of 1786 it was defeated, largely owing to an outcry against horse-

thieves. The old barbarous code of penalties continued in effect, though somewhat mitigated by executive clemency, until 1796, when Jefferson himself saw the reform through. Meanwhile a large part of the code was accepted, and some of the rest was referred back to a committee.

One of the most interesting laws for which Madison was primarily responsible was passed in the autumn session of 1784, authorizing the surrender by Virginia of any of her citizens guilty of a crime within the acknowledged jurisdiction of a foreign sovereign. Proof of the crime was to be submitted not to Virginia but to Congress, and Congress was to determine whether the law of nations would exact a surrender in such a case. This was really an extradition law, and it was suggested by the danger of becoming embroiled with the Spaniards, on account of the "licentious & predatory spirit of some of our Western people". It appeared that the pioneers were in the habit of committing various crimes in Spanish territory, and might in future be guilty of worse if the navigation of the Mississippi should be closed. This law has been called the first act against filibustering. It was opposed by many Virginians, who cited the bill of rights, and protested that the Spanish would not give an accused person jury trial, nor allow him any of the cherished liberties of Americans. But the bill was passed, and was a triumph for Congress and the national spirit, as well as a salutary lesson for the overzealous frontiersmen.

These arduous bouts of legislative activity, which sometimes lasted for three months at a time, were separated by periods which Madison spent at home, quietly reading his law and political theory. Jefferson wanted him to take a trip abroad in 1785, but he refused, saying that he had not time to take a long tour, that it would interfere with a course of reading "which if I neglect now I shall probably never resume," and that he was afraid the sea voyage would injure his health. He did, however, make a trip each autumn to New York, and in 1784 journeyed from Baltimore as far as Albany with Lafayette. They attended a parley held with the Indians, and Lafayette made a





GEORGE MASON



speech. Madison thought the Marquis an excellent man, whose love of popular approval was wholesome and virtuous rather than ambitious, and a friendship between the two men began, which lasted to the end of Madison's life.

The other two trips to New York were on business. When he first visited Albany, Madison became interested in the prospects of land speculation along the Mohawk River, and in the autumn of 1786 he and Monroe joined in the purchase of about 1000 acres. Having bought it, he wrote an enthusiastic description to Jefferson. The land, said he, was of a fertility scarcely less than that of Kentucky, it was near a navigable branch of the Hudson, it cost only \$1.50 an acre, and it was only fifteen or twenty miles from settlements where land was selling at £8 or £10 an acre. General Washington himself had pronounced it a good bargain. Now, he continued, if Jefferson would care to join in the venture, more land could be bought for the same price. It was in fact almost impossible to avoid making a profit. Everyone was doing it. Jefferson would be well advised to borrow money at six per cent to invest in this golden enterprise, and even the confused state of American finance was favorable, for money brought over from Europe while the American currency was inflated, could be paid back in a few years at a lower rate.

Thus the judicious Madison fell ill of the common fever. It does not appear that Jefferson responded to these enticements. Madison later bought out Monroe's share and sold 900 acres, in 1796, for \$5.83 per acre, which left a considerable profit, though scarcely what he had hoped for. He had no capacity for making money, and barely lived out his days without going through bankruptcy. Considering the length of his life, however, and the pitiable financial state in which so many Virginians, including Jefferson and Monroe, died, it cannot be said that Madison was improvident.

His lively desire to travel about the United States was much stimulated by these trips. He expressed himself as eager to see more of the northwest territory, and projected several trips with Monroe which never were carried out. On one journey to New

York he went by way of Harper's Ferry, and was much impressed by "the magnificent scene which nature here presents." He actually climbed the mountain, and went to much fatigue and trouble in reaching the proper place to see the view, which was a considerable thing for a man to do before the days of Romanticism. A thunderstorm broke upon the party, and the mist was thick, yet his heart was warmed by the prospect, "being enriched with the harvest in its full maturity, which filled every vale as far as the eye could reach." With that his slender capacity for aesthetic pleasure gave out, and the enterprise of fifty men at work making the Potomac navigable claimed his interest. "Their plan is to slope the fall by opening the bed of the river, in such a manner as to render a lock unnecessary, and by means of ropes fastened to the rocks, to pull up & ease down the boats where the current is most rapid. . . ."

Madison's observations and reflections were regularly communicated to Jefferson in Paris, who sent in return long letters describing new wonders in science, old horrors in kingly government, and the idle gossip of politics. One such letter has become famous, but perhaps not as famous as it deserves. Late in October, 1785, when Jefferson was at Fontainebleau in attendance on the luxurious court of Louis XVI, he went one day for a walk. To Madison he described his meeting on the road with a poor woman, with whom he entered into conversation. She was one of those who worked for four-pence a day, she maintained two children, was often without employment, and consequently without bread. Jefferson gave her twenty-four sous, and she burst into tears. "I asked myself," he wrote, "what could be the reason that so many should be permitted to beg who are willing to work, in a country where there is a very considerable proportion of uncultivated lands." This unpleasant question admitted of no comfortable answer, but Jefferson did not hesitate. "Whenever there is in any country, uncultivated lands and unemployed poor, it is clear that the laws of property have been so far extended as to violate natural right. The earth is given as a common stock to man to labour & live on. If for the encour-

agement of industry we allow it to be appropriated, we must take care that other employment be permitted to those excluded from the appropriation." Nor was that all. "Legislators cannot invent too many devices for subdividing property." Let them take care that their subdivisions go hand in hand with the natural affections of the human mind, but let them lessen the inequality of property by every reasonable means. He suggested that the poor be exempted from taxation, and that the rich be taxed higher in geometrical proportion as their wealth increased.<sup>5</sup>

To this eloquent letter Madison made an interesting reply,<sup>6</sup> in which he anticipated not only some of the theories of Malthus, but also some of the woes which would one day beset his country. "Your reflections on the idle poor of Europe, form a valuable lesson to the Legislators of every Country, and particularly of a new one . . . I have no doubt but that the misery of the lower classes will be found to abate wherever the Government assumes a freer aspect, & the laws favor a sub-division of property, yet I suspect that the difference will not fully account for the comparative comfort of the mass of people in the United States. Our limited population has probably as large a share in producing this effect as the political advantages which distinguish us. A certain degree of misery seems inseparable from a high degree of populousness. If the lands in Europe which are now dedicated to the amusement of the idle rich, were parcelled out among the idle poor, I readily conceive the happy revolution which would be experienced by a certain proportion of the latter. But still would there not remain a great proportion unrelieved? No problem in political œconomy has appeared to me more puzzling than that which relates to the most proper distribution of the inhabitants of a country fully peopled." He continued to say that no matter how lands were distributed there would be a surplus of people finally, more than could be employed in clothing, feeding, and ministering to the entire number. "What is to be done with this surplus?" Hitherto they had been employed in the manufacture of luxuries

and superfluities, or had been idle proprietors of lands, soldiers, sailors, and merchants. All these classes had been insufficient to absorb the redundant members of a populous society, "and yet a reduction of most of those classes enters into the very reform which appears so necessary and desirable. From a more equal partition of property, must result a greater simplicity of manners, consequently a less consumption of manufactured superfluities, and a less proportion of idle proprietors and domestics." Soldiers will be less necessary as government becomes juster, and "the number of merchants must be inconsiderable under any modification of Society". Having got himself well started on the subject Madison breaks off: "But I forget that I am writing a letter not a dissertation."

#### CHAPTER IV

### *TOWARD A NEW CONSTITUTION*

1783-1787

UNTIL very shortly before the Convention met at Philadelphia, Madison had given no serious thought to the idea of creating a new constitution for the United States. It is perhaps necessary to emphasize this point, for while older historians tended to endow him with a supernatural wisdom, which patiently guided an erring country to its destined goal, more modern writers sometimes leave the impression that he and his fellows were unpleasantly astute in their consistent and insidious pursuit of self-interest. Neither interpretation, of course, is entirely false. He had wisdom, and he had developed a fair amount of political judgement, which really explains why he refused to waste his time thinking about a new and more energetic constitution when Virginians were already much annoyed by the obligations of the Articles of Confederation. Certainly he was a member of the aristocracy, the possessing class, the creditor class. His feelings naturally were affected by this fact; he stood on the side of what he called law, order, and property. Yet he was no bourgeois tradesman, but a landowning aristocrat, and it was doubtful whether he really had much in common with the bourgeoisie. Time was to show, beyond much question, that he had not, but in 1787 the problem was presented in rather a different light.

The purpose for which government existed was clear to Madison. It was to protect individuals in the enjoyment of life, liberty and property, or in other words to administer justice. He was not a man to quibble over the meaning of these words. Therefore the problem amounted to this: was justice being administered, and if not, what could be done to the mechanism of government to insure that it would be? He had few preconceptions, and those he had were of the most general nature, com-

prising no more than the basic assumptions expressed in the Virginia Bill of Rights, and the typically American distrust of a strong government. He was surrounded by men with no interest in the Confederation, and no affection for the United States. Yet out of this background, guided slowly by the logic of events, he evolved his conception of a new constitution, and became convinced that it might be put into effect.

It has already been shown that one of the first things Madison learned in Congress was the need of financial reform. The system of requisitions upon the states did not work. The Treasury was empty; the army and the public creditors were unpaid. In 1783 he had sponsored a revenue scheme to overcome this difficulty, but it was not adopted by the states, and the fiscal condition of the country grew steadily more disreputable.

After he left Congress, and ceased to be directly concerned with the state of the Treasury, the subject lost its liveliest interest for him. Occasionally he was reminded of it, as when in the summer of 1785 he visited New York, and found that "Congress have kept the Vessel from sinking, but it has been by standing constantly at the pump, not by stopping the leaks which have endangered her". And in February, 1787, when he was again a member of Congress, he found a situation truly lamentable. "No money is paid into the public Treasury; no respect is paid to the federal authority. Not a single State complies with the requisitions; several pass them over in silence, and some positively reject them. The payments ever since the peace have been decreasing, and of late fall short even of the pittance necessary for the Civil List of the Confederacy. It is not possible that a government can last long under these circumstances." Publicly and privately Madison insisted that such a state of affairs must not be allowed to continue. There is no doubt that it was this kind of public finance which gave him his first and deepest impression of the impotence of the Confederation. But, after all, the impost scheme was designed to solve this problem, and no radical revision of the frame of gov-



ernment was necessary. It was a far cry from amending the Articles of Confederation to writing a new constitution.

## 2

Nothing illustrates better the gradual transformation of Madison's ideas than his reflections upon commerce and commercial treaties. In May, 1783, the Secretary for Foreign Affairs reported to Congress a project for a treaty with England, which was to open to American ships not only the direct trade with the West Indies, but also the carrying trade between the West Indies and the rest of the world. In exchange, British subjects were to be admitted to full freedom of trade with the United States. To this proposal Madison had strong objections. It appeared to him that the direct trade might be opened without any such concession to England. As for the carrying trade, that concerned the Eastern states only, while "the privilege to be conceded will chiefly if not alone affect the Southern States. The interest of these seems to require that they should retain at least the faculty of giving any encouragement to their own merchants' ships or mariners, which may be necessary to prevent a relapse under scotch monopoly, or to acquire a maritime importance. The Eastern states need no such precaution."

We have already marked an ungracious tendency in Madison towards his "Northern Brethren". This went deeper than mere irascibility. Virginia had no ships of her own, and yet was entirely dependent on her export and import trade, which was likely to be carried in English ships. New England grew rich by shipping, and was chiefly desirous of an entry into forbidden channels of commerce, for which she was quite willing to exchange privileges in American trade. To Madison it seemed clear that any benefits arising from a commercial treaty would fall to the share of New England, while any concessions made would be at the expense of the South. "If, for example, restrictions be laid on the legislative rights of the States to prohibit, to regulate or to tax as they please their imports & exports, & to

give such preferences as they please to the persons or vessels employed by them, it is evident that such restrictions will be most felt by those States who have the greatest interest in exports & imports." Hence he concluded that in any treaty of commerce, especially if made with Great Britain, "it may be the policy of Virg<sup>a</sup> in Particular, to reserve her right as unfettered as possible over her own commerce". These are scarcely sentiments of nationalism.

But after returning to Virginia Madison grew a little less suspicious of the Northerners, perhaps because he saw less of them. At the same time he began to perceive that his optimistic diagnosis of the commercial situation in which the United States would be placed by independence and peace had been quite wrong. England remained mistress of the seas, and her commercial policy was directed not by the enlightened tenets of Philosophy but by the motives of self-interest. Madison was to have many woeful experiences of British economic policy before his career was over, and each time he was to be provoked into championing new extensions of power to the United States government for the purpose of retaliation.

By far the most lucrative trade in which the Americans had engaged before the Revolution was that with the West Indies. It consisted not only of direct intercourse, but also of a carrying trade between the islands and the rest of the world. The more optimistic Americans, including Madison, had calculated that the direct trade at least would be allowed to continue after the peace, for it seemed plain that the islands must depend upon the same sources for their food supplies. Indeed, if the interests of West Indian planters had been considered, probably Americans would have had nothing of which to complain, but the naval officers and ship-owners of London got the ear of the government, and the trade was closed to American vessels. It was a heavy blow to the economic structure of the United States.

While Madison was thus disappointed in the West India trade, he was no less disillusioned with respect to Virginian commerce. We have already had occasion to note some of his ob-

servations on this subject. The English resumed a monopoly as complete as before the Revolution. British merchants extended generous credits, the planters imported costly luxuries, and in the attempt to pay for them they not only drained the country of specie, but also ran themselves heavily into debt. Meanwhile the price of merchandize, Madison claimed, was higher than in the northern states, while tobacco stood at 32s on the James River, 28s on the Rappahannock, and 44s in Philadelphia, though ultimately destined for the same foreign market. Planters bought too much, at too high a price, and got too little for the staple which they sold. Madison hoped that his port bill would provide at least a partial remedy for this condition. But he could not get far with the proposal. The planters, he wrote, were dissatisfied, "and with reason, but they enter little into the science of commerce, and rarely of themselves combine in defence of their interests". For his own part he tended, not altogether rationally, to blame the British.

Things were in this state when, in the summer of 1785, Madison received from Colonel Grayson, who was in Congress, a copy of a proposed change in the Articles of Confederation granting Congress the power to regulate trade. Soon afterward he wrote to Monroe on the subject, and his conclusions were far different from those he had reached in 1783. It was greatly to be wished, said he, that no regulations whatever should be necessary. "A perfect freedom is the System which would be my choice." But before such a system would be possible for the United States they must be out of debt, and before it would be attainable all other nations must concur in it. While disabilities were imposed on American ships and seamen by the laws of other countries, we must either retaliate in kind, or renounce both our just profits and our economic independence. He went on to describe the economic policy of England, and as he set down the facts he became uncommonly irate. "What is to be done?" he concluded. "Must we remain passive victims to foreign politics, or shall we exert the lawful means which our independence has put into our hands of extorting redress? The very

question would be an affront to every Citizen who loves his Country. What, then are these means? Retaliating regulations of trade only . . . ”

Many had thought that such regulations might be made by the states separately, but various attempts to do so had succeeded only in reducing to chaos the economic situation within the union. Madison avowed himself convinced that the power could only be used effectively by Congress. “If it be necessary to regulate trade at all, it surely is necessary to lodge the power where trade can be regulated with effect; and experience has confirmed what reason foresaw, that it can never be so regulated by the States acting in their separate capacities.” If Congress could not be trusted with this power constituted as they were, let them be otherwise constituted, “let their numbers be encreased, let them be chosen oftener, and let their period of service be shortened; or if any better medium than Congress can be proposed by which the wills of the States may be concentered, let it be substituted; or lastly let no regulation of trade adopted by Congress be in force until it shall have been ratified by a certain proportion of the States. But let us not sacrifice the end to the means; let us not rush on certain ruin in order to avoid a possible danger.”

What was this “certain ruin”? It was not merely poverty or bankruptcy. Should any causes prevail, he wrote, “in frustrating the scheme of the Eastern & Middle States of a general retaliation on G. B. I tremble for the event. A majority of the States deprived of a regular remedy for their distresses by the want of a federal spirit in the minority must feel the strongest motives to some irregular experiments. The danger of such a crisis makes me surmise that the policy of G. B. results as much from the hope of effecting a breach in our Confederacy as of monopolizing our trade.” This letter was written in August, 1785, and much of it was in cipher. In November, Madison delivered a notable speech in the House of Delegates, favoring the policy of commercial regulations by Congress, but the house

went no further than to adopt a resolution that "an act ought to pass to authorize the delegates of this State in Congress to give the assent of the State to a general regulation of the Commerce of the United States, under certain qualifications".

By the following March, Madison became genuinely alarmed lest there be too much delay in giving this power to Congress. He feared that men high in the councils of the states might be driven by their personal financial difficulties to become "fit instruments of foreign machinations", and enable "the same game [to be] played on our Confederacy by which Philip managed that of the Grecians". The Union itself was in danger.

Disturbing as the economic state of the country was to Madison, it seems plain that he was more alarmed because the lack of commercial regulations offered a threat to the continuance of the Confederation. We do not hear much of the *Union* in his writings until he begins to feel that it is in danger; thereafter it is perhaps the most compelling of the ideals for which he consciously works. On Christmas day, 1784, he wrote to R. H. Lee: "In general I hold it for a maxim that the Union of the States is essential to their safety ag<sup>st</sup> foreign danger, & internal contention," and these ideas were set forth more eloquently in his speech to the House of Delegates, for which his notes end thus: "Consequences of dissolution of confederacy. 1. Appeal to sword in every petty squabble. 2. Standing armies beginning with weak & jealous states. 3. perpetual taxes. 4. sport of foreign politics. 5, 6, blast glory of Revolution."

To this point had the state of commerce brought Madison's opinions. From about 1785 he labored constantly for the adoption of a uniform system of commercial restrictions. What, meanwhile, had become of his distrust of the "northern brethren"? It had not disappeared, and there were not wanting men to urge upon him the folly of committing the interests of Virginia to Congress. For example, R. H. Lee wrote to him in August, 1785: "It seems to me clear, beyond doubt, that the giving Congress a power to legislate over the Trade of the Union

would be dangerous in the extreme to the 5 Southern or Staple States, whose want of Ships & Seamen would expose their freightage & their produce to a most pernicious and destructive Monopoly . . . The Spirit of Commerce through out the world is a spirit of Avarice and could not fail to act as above stated . . . In truth it demands most careful circumspection that the remedy be not worse than the disease . . .”<sup>1</sup> Some of the unhappiest pages of American history were to demonstrate that there was much truth in Lee’s objection. Madison did his best to reply, remarking that if such considerations had been regarded, no confederation at all could have been formed, and the present power in Congress of making commercial treaties ought to be withdrawn. But the true question, said he, “is whether the commercial interests of the States do not meet in more points than they differ. To me it is clear that they do.” The loss of the West India trade was a far more serious matter for each state than any inequality which might result from a regulation of commerce by the authority of nine states. “I have heard the different interest which the Eastern States have as Carriers pointed out as a ground of caution to the Southern States who have no bottoms of their own ag<sup>st</sup> their concurring hastily in retaliations on G. B. But will the present system of G. B. ever give the Southern States bottoms, and if they are not their own Carriers I s<sup>d</sup> suppose it no mark either of folly or incivility to give our custom to our brethren, rather than to those who have not yet entitled themselves to the name of friends.” Thus Madison by 1785 was in full campaign for two critical amendments to the Articles of Confederation; one allowing taxation, and another regulation of commerce by national authority. He was drawing further away from the general run of Virginian opinion, which remained highly suspicious of the northeast and serenely confident in the size, strength, wealth, and free institutions of its own state.

But it must be remembered that Madison had not yet seriously considered remodelling the whole frame of national government.

## 3

M. Otto, the French minister, was a man of shrewdness and discernment, and certainly no one had a livelier interest in the prosperity of the United States than his master, who had invested in the new republic some of the last financial resources of his tottering throne. On the whole, M. Otto was not displeased with the Confederation, even as late as February, 1787. "But for the want of permanent revenue," he wrote to Vergennes, "the United States would be one of the best organized of governments. The department of foreign affairs, of war, of finances, are in the hands of trusty and capable men, whose integrity, wisdom, and circumspection will stand every test."<sup>2</sup> It is not unreasonable to believe that more Americans approved the Articles of Confederation in 1785 than approved the Constitution in 1788. Many believed in the necessity of patching them up with a few amendments, but comparatively few wished to renovate the whole system.

Nevertheless a constitutional convention had been suggested at least as early as 1780 by Hamilton, and had been urged by various persons upon various occasions ever since. Madison's papers do not indicate that he paid much attention to these schemes. He does not even seem to have been much interested when Patrick Henry, of all people, being suddenly convinced that ruin was impending, cornered him in a Richmond coffee-house, in May, 1784, and asked him to draw up a plan for strengthening the Confederation.<sup>3</sup> Madison merely noted to Jefferson that he found Henry "strenuous for invigorating the federal Gov<sup>t</sup> though without any precise plan". In November, 1784, R. H. Lee wrote a letter from Congress, and added in a postscript that many men were suggesting a convention for revising the Confederation. "I shall be glad of your opinion on this point, it being a very important one," he finished. Madison replied: "I have not yet found leisure to scan the project of a Continental Convention with so close an eye as to have made up any observations worthy of being mentioned to you." He went

on to say that he believed in the Union, and doubted the "perpetuity and efficacy of the present system". But he could not answer the question "in what mode, & at what moment the experiment for supplying the defects ought to be made".

Meanwhile Madison unwittingly set in motion the events which were to lead to the Constitutional Convention. At the end of June, 1784, he introduced into the legislature a bill providing for the appointment of commissioners to meet with commissioners from Maryland and discuss problems connected with the jurisdiction of the Potomac. The bill passed, and Madison was made one of the delegates. Independently of this juridical discussion, Washington himself negotiated with Maryland during the autumn of 1784 concerning the improvement of navigation in the Potomac, and an agreement was reached which was ratified by the legislatures of both states. In addition to this act, resolutions passed and money was appropriated in Maryland and in Virginia for clearing a road from the head of Potomac navigation to a convenient branch of the Ohio. Since the latter scheme would involve Pennsylvania, Madison moved to authorize a conference between Maryland, Virginia and Pennsylvania on the subject, and as Washington had finished his negotiations, the new duty was entrusted to the juridical commissioners who had been appointed in June but who had not yet held their meeting.

Through some blundering in dates Madison was not present when the commissioners from Maryland met with those from Virginia at Mount Vernon in March, 1785. A number of agreements were drawn up, which were referred to the legislatures for approval, but the Pennsylvania negotiation was not undertaken, though a letter was sent to the authorities of that state. In July, at about the time when Madison first heard of the project for conferring upon Congress power to regulate commerce, he was writing to Mason to inquire why the Commissioners had accomplished so little. Mason's reply revealed that there had been sad mismanagement by Virginian officials.<sup>4</sup>



However this might be, Madison's real interest turned immediately to the proposed amendment concerning commerce, and in November he made his speech to the House of Delegates on that subject. As we have seen, a resolution was passed, affirming that control over trade ought to be vested in Congress, but when the bill to that effect was reported at the end of November, there arose a disposition to limit its duration to a period of thirteen years. Madison considered this tantamount to a rejection of the scheme. "I think it better," he wrote to Washington, "to trust to further experience and even distress, for an adequate remedy, than to try a temporary measure which may stand in the way of a permanent one." Some had reasoned that at the expiration of the thirteen years the power given to Congress might be renewed, but this hope Madison thought "the most visionary one that perhaps ever deluded men of sense. Nothing but the peculiarity of our circumstances could ever have produced those sacrifices of sovereignty on which the federal Government now rests. If they had been temporary, and the expiration of the term required a renewal at this crisis, pressing as the crisis is, and recent as is our experience of the value of the confederacy, sure I am that it would be impossible to revive it." If Madison felt this way, one can hardly blame him for refusing to take a proposed Constitutional Convention seriously.

While matters were in this discouraging situation, and before final action had been taken on the amendment respecting commerce, there came word from Maryland that the compact drawn up by the commissioners concerning the Potomac had been ratified. Maryland further proposed another conference about a canal, to which representatives from Delaware and Pennsylvania should be invited. Despairing of the amendment, Madison seized this chance, and framed a resolution inviting *all* the states to appoint delegates to a meeting for discussing commerce and commercial regulations. He prevailed upon Mr. Tyler, who had not been in Congress and was consequently less

suspected of un-Virginian notions, to introduce this resolution to the legislature, where it lay on the table until January 21, 1786. It was then called up and passed by a large majority.

Such important consequences followed from Madison's manipulation of the Maryland scheme into a project for a continental convention that he has been given rather more credit for it than he deserved. Nothing indicates that he had any such consequences in mind when he wrote his resolution, or that he intended it to mean anything more than it said. In fact, there was small hope that such a convention could be of any use, and Madison himself had little faith in it. "The expedient is no doubt liable to objections and will probably miscarry," he wrote to Monroe. "I think, however, it is better than nothing." A quorum of the Virginian representatives held a meeting at Richmond and agreed to propose Annapolis as the place, and the first Monday in September as the time of meeting. Invitations to the other states were issued through the Executive of the state of Virginia.

No sooner had Madison returned to Orange than he began to hear that there might be more to the Annapolis meeting than appeared on the surface. Monroe wrote from Congress, asking if it would not be better to correct all the vices of the Confederation at once, by a Convention, rather than to tinker with it at intervals. If the former should be preferred, the powers of the Virginian delegates at Annapolis would be inadequate, since they related only to commerce. To this Madison replied that since the Assembly would refer nothing to Congress it was hardly likely that they would give a plenipotentiary commission to their deputies for a Convention. He continued: "I am not in general an advocate for temporizing or partial remedies. But a rigor in this respect, if pushed too far may hazard everything. If the present paroxysm of our affairs be totally neglected our case may become desperate. If anything comes of the Convention it will probably be of a permanent not a temporary nature, which I think will be a great point." In May he wrote again to Monroe: "Will it not be best on the whole to suspend measures

for a more thorough cure of our federal system, till the partial experiment shall have been made. If the spirit of the Conventioners should be friendly to the Union, and their proceedings well conducted, their return into the Councils of their respective States will greatly facilitate any subsequent measures which may be set on foot by Congress, or by any of the States."

Finally, on the 12th of August, less than a month before the Annapolis meeting, he wrote to Jefferson: "Many Gentlemen both within & without Cong<sup>s</sup>, wish to make this Meeting subservient to a plenipotentiary Convention for amending the Confederation. Tho' my wishes are in favor of such an event, yet I despair so much of its accomplishment at the present crisis that I do not extend my views beyond a commercial Reform. To speak the truth I almost despair even of this."

In fact he might well despair, even of the possibility of persuading the Virginians to consent to give Congress control over trade. After all, Virginia had less to gain from a stronger confederation than many of the states. There were comparatively few "public creditors" among her citizens, and it appeared that she was taxed in order to pay interest to the inhabitants of Pennsylvania and Massachusetts. She was sufficiently large and strong not to need protection from her neighbors, and the advantage she would derive from a federal regulation of commerce was doubtful, to say the least. She had in fact enjoyed a considerable revenue from the taxation of imports destined for consumption in North Carolina. As we have seen, many Virginians mistrusted the Eastern States, and Madison felt that the most telling argument in his state for commercial regulations lay not in the demonstration of an economic proposition, but in the fact that such regulations would be directed against England, still cordially hated by the rank and file of Southerners.

Just at this critical moment there arose another matter most embarrassing for the partisans of federal authority. Negotiations for a Spanish treaty had been renewed, this time not for an alliance against an immediate enemy, but merely for a treaty of amity and commerce. The Spaniards still insisted that the

Mississippi be closed to American commerce, in exchange for which they were willing to grant certain privileges in the Atlantic trade. Most Virginians thought an open Mississippi to be of paramount importance, and they had come to think it quite safe in the hands of Congress, but in this summer of 1786 a rumor went through the state that John Jay, the negotiator for the United States, had agreed to the closing of the river, and that Congress might ratify his treaty. Perhaps this was the most direct collision of economic interests which had yet presented itself to Madison. The amount of time and thought which he spent upon the subject was enormous. Page after page of argument was addressed to his various correspondents, and he even brought the subject up with Lafayette, hoping thus to influence the policy of France, and gain the strongest possible ally for his cause.

It is worth emphasizing the fact that Madison never wavered from his uncompromising opposition to any provision for even a temporary closing of the river. Some of his colleagues, such as Monroe himself, weakened on the subject; some like Washington really thought the Mississippi trade not worth preserving at the sacrifice of the Atlantic. It is not unlikely that those most deeply interested in developing the new routes over the mountains found themselves by consequence less able to enthuse over the alternative trade route down the Mississippi. Madison remained faithful to the west.

But it placed him in a most uncomfortable situation: "Ever since I have been out of Congress," he wrote to Jefferson, "I have been inculcating on our Assembly a confidence in the equal attention of Congress to the rights and interests of every part of the republic and on the Western members in particular, the necessity of making the Union respectable by new powers to Congress if they wished Congress to negotiate with effect for the Mississippi . . . Figure to yourself the effect of such a stipulation on the Assembly of Virginia, already jealous of Northern politics and which will be composed of about thirty members from the Western Waters . . . and of many others

who though indifferent to the Mississippi, will zealously play off the disgust of its friends against federal measures . . . the people at large on the western waters . . . will consider themselves as sold by their Atlantic brethren." It happened that the rumor which had been heard in Virginia was a false one, and the treaty was again dropped. But Madison would have been a very unreasonable political idealist indeed to have thought seriously of writing a new and stronger federal constitution under such circumstances.

## 4

Madison himself wrote Jefferson soon after the Constitution was signed that it had not been the political inadequacy of the Confederation which prepared men's minds for reform, but the insecurity of private property rights.<sup>5</sup> He would thus have seen no reason to disagree with an economic interpretation of the Constitution, and it is perfectly certain that he was himself converted to a belief in root-and-branch revision of the Articles by his growing perception that all was not well with private property. One reason why he was so slow in espousing the cause of a new constitution was that Virginia did not feel the effects of economic depression and the resulting agitation against property until rather late in the day.

In the summer of 1784 the price of tobacco on the James River ranged from 36/ to 42/6 per hundredweight, which according to Madison "has brought more specie into the Country than it ever before contained at one time". Next spring the price stood at 37/6 at Richmond, and by July, 1785 had only come down to 32/ or 33/, which Madison thought tolerably good, though ten or twelve shillings below the price in Philadelphia. Meanwhile, financial depression visited the northeast and began slowly to creep southward. In 1786 it arrived in Virginia. January saw tobacco at 23/ on James River, and in May Madison wrote: "Our specie has vanished. The people are again plunged into debt to the Merchants, and these circum-

stances added to the fall of Tob<sup>o</sup> in Europe & a probable combination among its chief purchasers here, have reduced that article to 20s."

With the depression came the usual hue and cry after remedies. Debtors could not pay their debts, nor common people their taxes, and in many states at least one house of the legislature was controlled by such persons. Accordingly, various laws were enacted for their benefit, some requiring a postponement of legal collections, or forcing creditors to accept payment in certain prescribed installments, some making land a legal tender for settling debts, some even more drastic. But the favorite expedient was to issue paper money, for it was thought by many that the real disease was the lack of a circulating medium. Consequently, during 1785 and 1786 large issues were put out in many states and began to depreciate in the manner already made familiar by the Revolutionary currency. Men of property began to suffer more from the remedies applied to the depression than they had from the depression itself.

Nothing of all this penetrated very deeply into Madison's consciousness until after the call for the Annapolis convention which was issued in January, 1786. It is true that during his trip northward in the autumn of 1785 the Pennsylvania legislature was discussing paper money, but he was more impressed by the poverty of the United States treasury, and the selfishness of the states in failing to pay their requisitions. Likewise, although he noted "a considerable itch for paper money" in the Virginia session of 1785-1786, he had little cause to worry, for "no overt attempt was made". A repeated postponement of taxes, however, had already damaged the condition of the state treasury, and as the year progressed matters became much more serious. News from the north was alarming. Colonel Grayson, a highly intelligent Virginian then serving in Congress, wrote an account of affairs in March, 1786, and some of his words were such as to make Madison ponder: "The Antients were surely men of more candor than We are; they contended openly for an abolition of debts in so many words, while we strive as hard for

the same thing under the decent & specious pretense of a circulating medium. Montesquieu was not wrong when he said the democratical might be as tyrannical as the despotic, for where is there a greater act of despotism than that of issuing paper to depreciate for the purpose of paying debts, on easy terms; If Lord Effingham is right that an act ag<sup>t</sup> the Constitution is void, surely paper money with a tender annexed to it is void for is it not an attack upon property, the security of which is made a fundamental in every State in the Union." <sup>6</sup> He went on to mention that many were suggesting a plenipotentiary convention to revise the Articles of Confederation. By June Madison himself had begun to fear that nothing could avert the issue of paper at the next session of the legislature, and in August he wrote Jefferson that the rage for paper money was the chief dishonor of the country. "Most of our political evils may be traced up to our commercial ones, as most of our moral may to our political."

Madison's economic opinions were not altogether sound, according to the standards of the present day, but they provided a tolerable rationalization of his policy. He believed that the depression, at least in Virginia, was primarily due to the extravagance of the people, who bought as much as generous English credit would allow. Specie then left the country, and a lack of specie, said he, together with a few other factors, caused the low price of tobacco. He admitted, in the summer of 1786, that there was probably not enough hard money in all Virginia to pay the taxes which had been levied, but he refused to accept the idea of paper money as an alternative. "The value of money," he wrote, "consists in the uses it will serve." Specie was useful in both foreign and domestic trade, hence it was more valuable than paper. He pointed out that people would use paper money to purchase specie, which they would then export to buy foreign articles. This would render specie more expensive, and thus depreciate the value of paper money. Such was his theory; but it required less intelligence to argue from past sad experience that paper money was sure to depreciate.

Such inflation he wholly condemned. It was unjust to creditors, he said, if the paper were made legal tender, and to debtors if it were not, since the difficulty of obtaining specie was then increased. In the spirit of the later Marshall he condemned it as violating the constitution, (of Virginia, naturally) for it injured the rights of property as much as would the confiscation of an equal value in land, and that without trial by jury. Perhaps he picked up this reasoning from Grayson. Furthermore, it encouraged extravagance among the people, and increased the unfavorable balance of trade. It destroyed confidence between individuals, it enriched speculators and sharpers, it vitiated morals, it reversed the end of government by rewarding the worst and punishing the best of men, it disgraced republicanism, it created dissensions among the states, and it was anti-federal.

The last of these objections must be slightly developed. One of the principal evils of inflation during these years was that the rate of depreciation varied widely from one state to the next. Inter-state transactions became difficult or impossible, and the settlement of old public accounts became an endless subject of contention. Madison contended that the right of coining money had been given by the Articles of Confederation to Congress for two reasons, to assure uniformity between state currencies, and "to prevent fraud in States towards each other or foreigners". Both these reasons held equally for paper money, he declared. It is not at all unlikely that when the Constitution prohibited states from emitting bills of credit, it was only affirming what Madison believed to be the true, though unenforceable, meaning of the Articles of Confederation.

Madison's remedy for the depression was "to enforce Justice & taxes". This would be painful, he knew. But since the true cause of depression was luxurious expenditure, his conclusion was at least logical. And in fact all his ideas hung together, for nothing would help to retain specie in the country more than the adoption of uniform commercial restrictions, while if taxes were rigorously collected instead of being postponed, people would be deprived of that much money to ship abroad.



Still only mildly troubled by the general situation, Madison left Orange in July, 1786, and travelled to New York. Here he made the purchase of lands which has already been described, and indulged in heart-to-heart talks with politicians in the city. By August 12 he was in Philadelphia, and from there he wrote at great length to Jefferson, revealing for the first time a deep concern about the paper money situation. He gave several pages to a description of the iniquitous laws which many of the states had passed, and to a discussion of the theory of inflation. Yet he still maintained, in this letter, that the idea of a general revision of the Articles of Confederation was chimerical in the present state of politics.

And then, on September 5, he arrived at Annapolis for the Convention. Travelling with one servant, he put up at an inn kept by George Mann, where he remained until the morning of the 15th. The prospect was extremely disappointing. Few delegates appeared, and those very tardily. It seemed quite useless to discuss commercial restrictions with representatives of no more than five states. For the most part no formal meetings were held, but there was a good deal of conversation, and as these men talked together about the state of the country, they found themselves moving towards a conclusion of considerable audacity. Nearly every one in theory favored a stronger government, but perhaps all, like Madison, were individually hesitant about believing in its practicability. Here in Annapolis each one's sentiments were fortified by the corresponding feelings of others. On the 11th Hamilton arrived, and the atmosphere must immediately have become more stimulating. On the 14th the decision was made, to recommend the holding of a meeting at Philadelphia in the next May, with authority to revise the Articles of Confederation. Next day Madison started for home.<sup>7</sup>

M. Otto wrote to Vergennes a month after the Annapolis convention, describing its apparent failure, but declaring that it had actually accomplished precisely what its sponsors had intended it should accomplish. His analysis would do credit to a

modern economic historian. The propertied classes, he said in effect, had deeply plotted the whole business, and were intent upon getting themselves into power, assuring the collection of taxes and the payment of creditors, and in general trampling upon the common herd.<sup>8</sup> Perhaps he was right, but it is hard to escape the conviction that Madison, far from plotting the affair, was actually won over to the new policy on the spot, by the influence of the common enthusiasm. It was not so much that he needed conversion to the idea, as that he needed courage and confidence in its practicability. Madison was a little timid about final decisions, and sensitive to the influence of a strong and daring personality like that of Hamilton. The Annapolis Convention was a turning-point in his career.

In 1835 he wrote a short account of the origin of the Constitution, in which he said that the events between the summoning of the Annapolis Convention and its meeting were serious enough to make that body act as it did, while the events between the Annapolis and Philadelphia conventions inspired the radical disposition which was manifested in the latter meeting.<sup>9</sup> It is certain that Madison's decision taken at Annapolis was soon confirmed by news from the north. On November 1 he wrote from Richmond to his father: "We learn that great commotions are prevailing in Mass<sup>ts</sup>. An appeal to the Sword is exceedingly dreaded. The discontented it is said are as numerous as the friends of Gov<sup>t</sup> and more decided in their measures. Should they get uppermost, it is uncertain what may be the effect. They profess to aim only at a reform of their Constitution and of certain abuses in the public administration, but an abolition of debts public & private, and a new division of property are strongly suspected to be in contemplation." This was the first account of Shays' rebellion, which did not come to a head until the next spring. In the same letter Madison finally declared that an "amendment of the Confederacy" had become, in his opinion, essential to its continuance. But he was also able to report that the legislature had voted down a proposition for

paper money, and a week later that the resolution in favor of the Philadelphia Convention had been unanimously passed.

The Virginians, in fact, were definitely interested. "It has been thought advisable," wrote Madison to Washington, "to give this subject a very solemn dress, and all the weight that could be derived from a single State. This idea will be pursued in the selection of characters to represent Virg<sup>a</sup> in the federal convention." Meanwhile the Mississippi business remained mercifully silent, until later in the month the House adopted resolutions protesting against the proposed treaty and instructing their delegates in Congress accordingly. Madison was elected to Congress to fill the place of Henry Lee, who may have been suspected of heterodoxy on this point. But Patrick Henry was finally lost to the "federal" forces, presumably because of the attitude of Congress on the Mississippi closure. Although elected a delegate to the convention, he refused to serve.

Early in January Madison reported concerning the rebellion in Massachusetts: "It is pretty certain that the seditious party has become formidable in the Gov<sup>t</sup> and that they have opened a communication with the viceroy of Canada". Such rumors, though actually untrue, were as potent in forming opinion as if they had been true. New York rejected the impost bill, and a general revenue appeared further away than ever. Under these circumstances, Madison joined the Congress in New York.

In February there began to be serious talk of Monarchy on the one hand, and of a division into three confederacies on the other. "The latter idea I find after long confinement to individual speculations & private circles, is beginning to shew itself in the Newspapers," wrote Madison to Pendleton. He reported also that "the Present System neither has nor deserves advocates . . . No money is paid into the public treasury; no respect is paid to the federal authority. Not a single State complies with the requisitions." But by that time it was apparent that most of the states would appoint delegates to the Philadelphia convention. "What the issue of it will be is among the other

arcana of futurity and nearly as inscrutable as any of them. In general I find men of reflection much less sanguine as to the new than despondent as to the present System," wrote Madison in the same letter.

In March and April, 1787, Madison formulated his plans for a new government, and also drew up a masterly analysis of the evils of the Confederation, and of the reasons for these evils. An account of these will fall more naturally into the next chapter. But although he had made his own decision, he was well aware of the tremendous difficulties which still lay ahead. The Virginia legislature had been so schooled by a year's adversities that he thought it favorably disposed, yet there was still the Mississippi question to distract the westerners, and it was said that Patrick Henry would make a new try for paper money. "The nearer the crisis approaches, the more I tremble for the issue," he wrote on April 22. "The necessity of gaining the concurrence of the Convention in some system that will answer the purpose, the subsequent approbation of Congress, and the final sanction of the States, presents a series of chances, which would inspire despair in any case where the alternative was less formidable."

## CHAPTER V

### *A NEW CONSTITUTION*

1787

**I**N some respects the situation which faced the men of 1787 resembled that of which their descendants have gradually become conscious during the past two or three decades. The federal government did not possess enough power and dignity to maintain order and justice in society. It was plain to most intelligent men that commerce, the currency, and public finance had ceased to be state and had become national problems. But it was equally plain that many of the most powerful political forces in the country were strenuously opposed to any change in the established order. No one knew precisely what ought to be done, and men differed as to how much could be done in the current state of public opinion, but everyone who favored a change knew in a general way what goal he had in mind. This goal was greater stability in government, and better protection of private property.

But it would of course be wholly wrong to infer that a stronger federal government was desired in order that it might exercise a more intimate supervision over the social order. It was rather the opposite. By removing certain powers from the state governments and giving them to an authority more remote and more impersonal, the seminal influences of the new age, which were those of commerce and finance, would be given a new freedom. Thus the situation of America in 1787, seen in this light, is more analogous to that of European countries two centuries earlier, when the commercial revolution destroyed feudalism and erected nations, than it is to the state of affairs today. It differed from both, however, in that the force against which private rights sought protection was not that of a feudal nobility nor that of a capitalistic oligarchy, but that of democracy.

It had taken long to convince Madison that the time was ripe

for governmental change. Although he had nearly always favored an increase in the federal powers, and had campaigned vigorously for amendments to the Articles of Confederation, he had after all been scarcely more industrious than others in this movement. But finally he became convinced that it was time to take action, and his greatest service to the cause of a new government was performed during the spring of 1787, when almost alone he revolved in his mind the theory of republican government and produced the essentials of a definite scheme on which the Convention might work. It is for this service that he deserves the title of "Father of the Constitution".

The difficulties were great, and as Madison himself declared in the 37th number of *The Federalist*, "the novelty of the undertaking immediately strikes us". There was little if any help to be got from a study of the past. His careful investigation of the confederacies of history yielded only one important lesson, which was that such organizations were weak, inefficient, and rent by internal quarrels. Discouraging as this was, he made laborious notes upon such ancient and modern examples as were available, and at least learned of some errors to be avoided. The problem was to construct a government which should possess the requisite energy and stability, without sacrificing the liberty in which he and others sincerely believed, and without departing too far from the system to which old habits and customs had devoted the American people.

The construction of this system meant, as has been said, the building of a social order in which commerce and finance, merchants and bankers, might rise to a position of dominance. It meant the eventual destruction of the social and economic system out of which Madison had come and for which he stood. But this development was practically inevitable, and was certainly not to be avoided by reckless issues of paper money and legislative tampering with private contracts. Not long after the new government was put into operation Madison began to realize that he had helped to create something which held disastrous possibilities for him and his kind. The extent to which he

understood the economic course of history forms indeed one of the most interesting aspects of his thought, but it is a fact of great significance that in the spring of 1787 he was still thinking in terms of Politics, which was by no means inconsistent with a deep concern for the rights of property. It is worth while at this point to make a rather extended survey of his political theory, not only because he evolved from it a plan for a new constitution, but because in it may be found the key to his future public career. By the time he entered the Philadelphia Convention his ideas were well worked out, and remained essentially the same throughout the remainder of his life.

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In common with nearly all the Founding Fathers, Madison drew the fundamentals of his philosophy from the school of Locke. So firmly implanted were these fundamentals in his mind that he never questioned them, nor did he often refer directly to Locke, but acted as if the bases of faith had been established beyond a doubt. Neither his readings in theology nor his later acquaintance with the critical work of Bentham seems to have shaken his confidence. In 1825, long after the doctrine of natural rights had been laid to rest, he still recommended Sidney and Locke as "admirably calculated to impress on young minds the right of Nations to establish their own Governments". This was, of course, what Locke had set out to prove, and he had proved it, to the satisfaction of all who were predisposed to be satisfied.

But to accept this proof there was required of each follower of Locke an initial act of faith. This was his assent to the proposition that life, liberty, and the freedom to acquire property were rights conferred upon all men by Nature, and not by man or by society. Since they were conferred by Nature, neither man nor society could take them away. Government was merely a convenient instrument, created by agreement or compact, to facilitate the enjoyment of these rights by protecting each man from the unjust intrusion of his neighbors. Government rested

upon the consent of the governed, and had no powers beyond those which men necessarily gave to it for the public good of society.

Madison believed all this with complete devotion. "What is the meaning of government?" he asked in the Virginia Convention of 1788, and answered, "An institution to make men do their duty." And in the 51st number of *The Federalist*: "What is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary." And at the end of his life he remarked that "the necessity of any government is a misfortune". Such sentiments are the merest commonplaces of American thought, but as we are rapidly learning in modern times they reveal only one of many possible ways of looking at the state.

More interesting is Madison's conception of those rights which government was instituted to protect. Here again he was an orthodox follower of Locke, who had been mainly concerned to prove that freedom to acquire property was a natural right, not to be interfered with by the caprices of governmental authority. We have already cited the Virginia Declaration of Rights, which contained most of the natural rights in which Madison believed, and some of the political principles derived from them. Freedom of speech, freedom of the press, religious freedom, the faculty of acquiring property, and so on are the personal rights which the state is to guard. Trial by jury, frequent elections, habeas corpus, the separation of legislative, executive, and judicial powers and the like are the governmental devices best fitted to secure them.

But the rights of property were the most important of all. In the Philadelphia Convention Gouverneur Morris put this point without mincing words: "Life and liberty were generally said to be of more value, than property. An accurate view of the matter would nevertheless prove that property was the main object of Society. The savage state was more favorable to liberty than the Civilized; and sufficiently so to life. It was preferred by all men who had not acquired a taste for property; it was



only renounced for the sake of property which could only be secured by restraints of regular Government." Madison was less brutal. "It is sufficiently obvious," he said in 1829, "that persons now and property are the two great subjects on which Governments are to act; and that the rights of persons, and the rights of property, are the objects, for the protection of which Government was instituted. These rights cannot well be separated. The personal right to acquire property, which is a natural right, gives to property, when acquired, a right to protection, as a social right." And in the 10th number of *The Federalist* he put it this way: "The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government." \* There can be no doubt that the protection of property rights was the first object contemplated by those who framed the Constitution, for the vagaries of state legislatures had rendered such rights insecure, and as Madison wrote to Jefferson: "I am persuaded I do not err in saying that the evils issuing from these sources contributed more to that uneasiness which produced the Convention, and prepared the Public mind for a general reform, than those which accrued to our national character and interest from the inadequacy of the Confederation to its immediate objects."

The most difficult question remains. What did Madison mean by "property"? Perhaps it is more to the point to inquire what he did not mean, for such obvious things as money, houses, merchandize, and especially lands, were of course included in his use of the term.\* Just as obviously excluded were privileges,

\* It may be observed that according to Madison, it is not the *property*, but the *faculty of acquiring property*, which is a natural right. Hence it would be an offense against Nature to deprive a person of the latter, whereas the protection of the former may be claimed only as a social right. Perhaps a distinction such as this was necessary to justify those who meddled with entail, or perhaps it was merely to guard against the inconvenience of having everyone demand a share of property as a natural right.

When on exhibition, as in Madison's article on "Property" for the *National Gazette*, theorists of the school of Locke would make the word embrace "everything to which a man may attach a value and have a right". In this sense one

titles, immunities, revenues of manorial justice, advowsons, governmental offices, and other such trappings, which many inhabitants of France, for example, would have numbered among the most valuable of their economic appurtenances. These held no place in Madison's conception of property, principally because each of them was inconsistent with some of the personal liberties in which he sincerely believed. If, therefore, he cast away some ancient forms of property right, it is difficult to say how many of the new aspects of property which have appeared since his day he would have been disposed to retain. "It is . . . certain," he wrote in 1821, "that there are various ways in which the rich may oppress the poor; in which property may oppress liberty; and that the world is filled with examples." Dimly he foresaw a time of danger caused by "a dependance of an increasing number on the wealth of a few". But he had hopes that the laws of the United States, by prohibiting entail, would encourage the more equal distribution of wealth, and he found more cause in his day to fear for property than for liberty. We have already seen him helpless to solve the problem of how the inhabitants of a fully populated country could be distributed in productive labor, and it is of course useless to seek in his writings for an opinion concerning a future industrial age of which he knew nothing.

These fundamental notions, then, he took from the school of Locke, and to them he added nothing. But theorizing had done its work by the Revolution of 1688, according to Madison; government now was proved to rest upon the consent of the people, and the dichotomy of governors and governed had been ended. It had become the task of political science to prevent a reappearance of this dichotomy, to hold the ground which had been gained, to invent and operate governments which should not oppress the governed. To this science Madison made his contribution.

had property in his opinions, the safety and liberty of his person, etc. But in all ordinary argument the word was used in the narrower, economic, sense, and there seems to be no need to depart from that meaning here.

The problem was a nice one. On the one hand was the constant tendency of governments, however justly constituted, to oppress the people. As Madison put it: "there is a tendency in all governments to an augmentation of power at the expense of liberty . . . Power when it has attained a certain degree of energy and independence goes on generally to further degrees," and "wherever the real power in a government lies, there is the danger of oppression". But on the other hand he observed that when a government was too weak, "the direct tendency is to further degrees of relaxation, until the abuses of liberty beget a sudden transition to an undue degree of power . . . It is a melancholy reflection that liberty should be equally exposed to danger whether the Government have too much or too little power, and that the line which divides these extremes should be so inaccurately drawn."

The attention of Americans had been concentrated mainly upon remedies and recipes against the abuses of power. There were a number of such recipes. Bills of Rights, for example, described and enumerated those privileges of men which the government was not authorized to infringe. Such declarations were valuable, Madison thought, chiefly in a monarchy, where the "latent force of the nation is superior to the Sovereign, and a solemn charter of popular rights must have a great effect, as a standard for trying the validity of public acts, and a signal for rousing & uniting the superior force of the community". In a popular government, on the other hand, "the political and physical power may be considered as vested in the same hands, that is in a majority of the people, and, consequently the tyrannical will of the Sovereign is not to be controuled by the dread of an appeal to any other force within the community". Yet even in a popular government, such Bills of Rights had value as an educational force, and also in case of usurpations by the administration itself, as distinguished from the sovereign people.

Another nostrum against oppression was the division of powers, that is, the arrangement of the government so that the legislative, executive, and judicial branches were kept separate.

Madison realised that a complete segregation of each of these three departments was neither possible nor desirable, but the general principle was one to which he, and all others, gave hearty assent. Constant was the outcry against putting "the purse" and "the sword" into the same hands, and the Fathers insisted on nothing more minutely than upon the system of checks and balances between the three powers. They had learnt this from Montesquieu, who had observed it in the English government, where, as a matter of fact, it did not exist.

An excellent system for avoiding oppression was republicanism. Madison defined a republic as a government derived from the people, in which all officials held office either during pleasure, or for a limited period, or during good behaviour. It was essential that the government be derived from the great body of the people, rather than a small section, and it was sufficient that the officials be appointed either directly or indirectly by the people. He profoundly believed that the people were capable of self-government, and that no other form of government "would be reconcilable with the genius of the people of America" or with the fundamental principles of the Revolution. To republicanism both he and America were committed.

But besides the notorious instability and inefficiency of popular governments there was one theoretical objection to the establishment of such a one in the United States. Montesquieu had approved of republican institutions, but he had declared that they could function properly only in very small states, and this dictum had been accepted by nearly everyone who studied politics. If true, it plainly rendered unsound the scheme of a more perfect union in the United States, and it formed the basis for many arguments against the Constitution. Madison's original contribution to political theory was his disproof of this statement of Montesquieu's by a keener analysis of the forces at work in a society, and his construction of a new doctrine on the ruins of the old, which seemed also to remove many other objections to republicanism.

"Those who contend for a simple Democracy," he wrote, "or

a pure republic, actuated by the sense of the majority, and operating within narrow limits, assume or suppose a case which is altogether fictitious. They found their reasoning on the idea, that the people composing the Society, enjoy not only an equality of political rights; but that they have all precisely the same interests, and the same feelings in every respect. Were this in reality the case, their reasoning would be conclusive. The interest of the majority would be that of the minority also; the decisions could only turn on mere opinion concerning the good of the whole, of which the major voice would be the safest criterion; and within a small sphere this voice could be most easily collected, and the public affairs most accurately managed. We know however that no society ever did or can consist of so homogeneous a mass of Citizens . . . In all societies, distinctions are various and unavoidable."

What caused these distinctions? Madison's answer is perhaps best stated in the 10th number of *The Federalist*, although he had thought the matter through before the Convention met. Religious opinions, political opinions, attachment to particular leaders, geographical affiliations, all "divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to cooperate for their common good". "But the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilised nations, and divide them into different classes, actuated by different sentiments and views."

A society, then, was not composed of a homogeneous mass of citizens who would deliberate upon public questions in the light of Reason, but of a multitude of groups, actuated by diverse interests, pulling the state this way and that according to the force

which each could exert for the furtherance of its own ends. As long as a faction with an interest hostile to the dictates of reason and justice remained in a minority, it offered no great danger. But the chief causes of faction were economic, and there were always more poor than rich. This was the real menace of democracy. As Madison put it in a letter to Jefferson, who was in France: "Wherever the real power in a Government lies, there is the danger of oppression. In our Governments the real power lies in the majority of the Community, and the invasion of private rights is *chiefly* to be apprehended, not from acts of Government contrary to the sense of its constituents, but from acts in which the Government is the mere instrument of the major number of the Constituents. This is a truth of great importance, but not yet sufficiently attended to; and is probably more strongly impressed on my mind by facts, and reflections suggested by them, than on yours which has contemplated abuses of power issuing from a very different quarter. Wherever there is an interest and power to do wrong, wrong will generally be done, and not less readily by a powerful & interested party than by a powerful and interested prince."

Experience had proved that neither prudence, respect for character, nor religion would restrain a majority from violating the rights of minorities or of individuals. Something was gained by the institutions of representative government, which tended "to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country . . . Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose."

But Madison declared, and this was the substance of his addition to political theory, that the surest possible protection for minorities lay in enlarging the sphere of government so as to embrace more territory and include a larger population. "A common interest or passion is less apt to be felt and the requisite

combinations less easy to be formed by a great than by a small number. The Society becomes broken into a greater variety of interests, of pursuits of passions, which check each other . . . It may be inferred that the inconveniences of popular States contrary to the prevailing Theory, are in proportion not to the extent, but to the narrowness of their limits." And he summarized the whole matter in this way: "The great desideratum in Government is such a modification of the sovereignty as will render it sufficiently neutral between the different interests and factions, to controul one part of the society from invading the rights of another, and at the same time sufficiently controuled itself, from setting up an interest adverse to that of the whole Society. In absolute Monarchies the prince is sufficiently neutral towards his subjects, but frequently sacrifices their happiness to his ambition or his avarice. In small Republics, the sovereign will is sufficiently controuled from such a sacrifice of the entire Society, but is not sufficiently neutral towards the parts composing it. As a limited monarchy tempers the evils of an absolute one; so an extensive Republic meliorates the administration of a small Republic."

Like the political philosophy of the great majority of mankind, Madison's was a rationalization of his conscious and unconscious attitudes and interests. The doctrine of natural right, the sanctity of the particular kinds of private property which he had in mind, the mild restraints of government, seemed admirably suited to the needs of a liberal and well-to-do landowner. It did not occur to him that these notions themselves might be merely those of a "faction", and indeed they probably were not, for whatever its relation to the eternal dictates of Nature, the system which he contemplated provided for the general good of humanity in America as well as any other was likely to have done in that day and age.

But it is clear that in his analysis of society, Madison made one basic error. He believed that it was split up into a multitude of interests, which in such a large country as the United States would check each other, and leave the general govern-

ment in a state of neutrality between them. He failed to realize that of all these interests, only two or three were of vital importance to men, and that these would swallow up minor differences and appear with increased strength in the councils of the nation. Without much doubt these two or three vital interests were those of different economic groups, but even if they be labelled with different names, the fact of their existence remains. No one would claim that the history of the federal government has been characterized by a lack of controversies.

The genius of Hamilton perceived this. Before the Constitutional Convention had been in session a week Madison explained his theory to the delegates, who were considerably impressed. But Hamilton recorded his objections: "The Assembly when chosen will meet in one room if they are drawn from half the globe—& will be liable to all the passions of popular assemblies."<sup>2</sup> And he predicted that even though petty issues might not build up dangerous factions, major issues, such as the distinctions between the Eastern, Middle, and Southern States, and between commercial and non-commercial states, would do so. He was right, and Madison had not been in Congress two years before he found a "faction", that of Hamilton's own "moneyed interest", exerting an influence which he deemed to be disastrous. He went into opposition.

But this is to anticipate the story. In the spring of 1787 the problem was to establish a government, and we must see what manner of government Madison's attitudes, observations, and theories led him to suggest.

When in April, 1787, Madison assembled together in one paper a list of the vices of the Confederation they made a most impressive array. The United States government looked a sorry thing. It could not raise money, it could not regulate commerce, it could not prevent its members from violating treaties and the law of nations, or from molesting property rights by various and conflicting legal-tender laws. These were familiar charges. But, being intent upon his purpose, he now discovered many new inadequacies. The want of "concert" in commercial matters was



only the most conspicuous example of a general disharmony. There was no uniformity in naturalization laws, copyright laws, commercial regulations, currencies, and the like, nor any provision "for national seminaries, for grants of incorporation for national purposes, and other works of general utility". In other words, there was no provision for a National Bank and a system of internal improvements! There was no method of securing to each state its republican form of government against minorities who might succeed in overthrowing the rights of the majority by superior organization and force. There was no "sanction" for the laws passed by Congress, and the lack of this made the Articles in fact not a Constitution but a treaty. Furthermore, the people had never ratified the articles, and it was therefore doubtful whether a law of Congress or a state law conflicting with it should be supreme. The Confederation was actually a league of sovereign powers, and consequently, if any member committed any act breaking the Articles, the remaining parties would be absolved from their obligations, and would have the right to dissolve the Union. The multiplicity and mutability of the laws of the states demonstrated the unwisdom of their legislatures, and the injustice of many of these laws was still more alarming, "because it brings into question the fundamental principle of republican Government, that the majority who rule in such governments are the safest Guardians both of public Good and private rights".

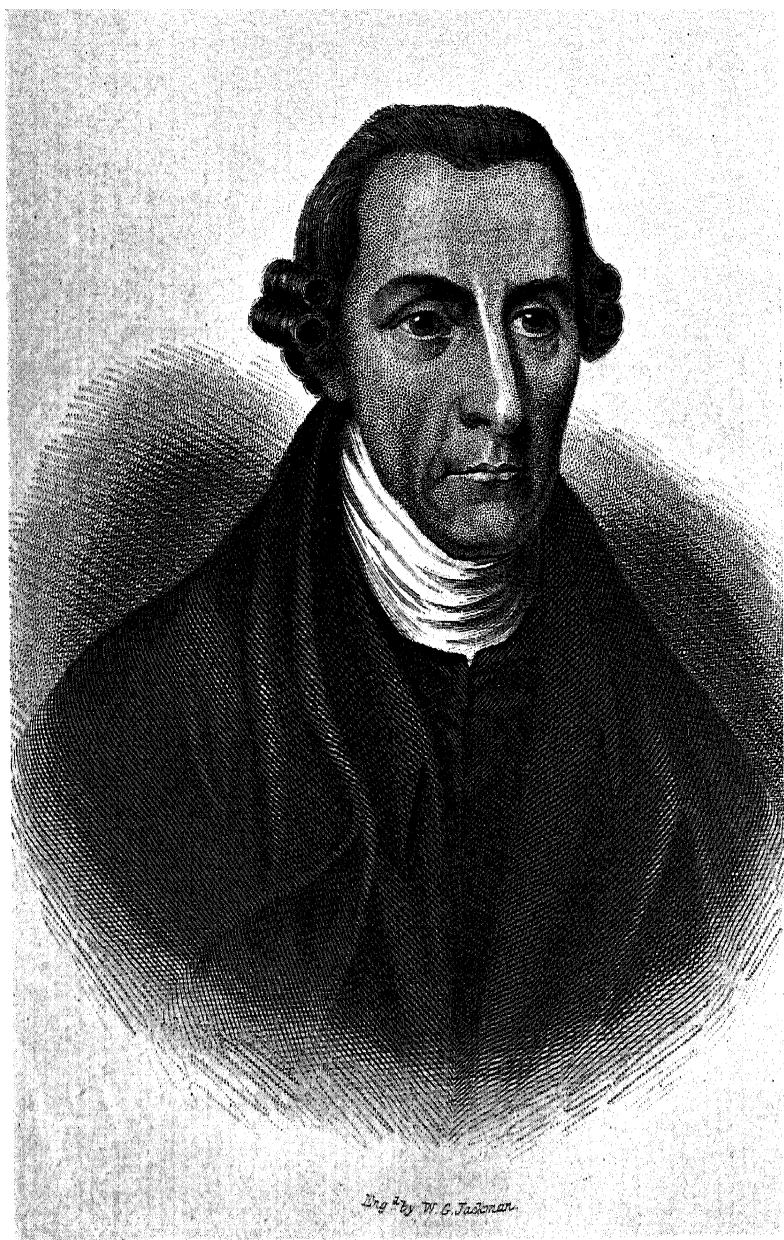
Madison's specific suggestions for a new constitution are developed in three letters: to Jefferson, March 18; to Edmund Randolph, April 8; and to Washington, April 16, 1787. Having given his mind to the problem, he evolved propositions which struck at the very roots of the Confederation. "I hold it for a fundamental point," he began, "that an individual independence of the States is utterly irreconcilable with the idea of an aggregate sovereignty. I think, at the same time, that a consolidation of the States into one simple republic is not less unattainable than it would be inexpedient. Let it be tried, then, whether any middle ground can be taken, which will at once support a due

supremacy of the national authority, and leave in force the local authorities so far as they can be subordinately useful."

"The first step to be taken is I think, a change in the principle of representation." The larger states must send more delegates than the smaller. This was necessary not only to placate the large states, but because the new government would operate directly upon the individual citizens of the nation, and not as did the Confederation merely upon the state legislatures.

"Let the national Government be armed with a positive and complete authority in all cases where uniform measures are necessary, as in trade, &c., &c. Let it also retain the powers which it now possesses." It is hardly to be doubted that Madison meant to have the powers of the federal government enumerated or at least limited. In the Convention he said that "he had brought with him . . . a strong bias in favor of an enumeration and definition of the powers necessary to be exercised by the national Legislature; but he had also brought doubts concerning its practicability." Exactly what these doubts were we do not know, but it is interesting evidence that Madison at this time had little fear of an undue amount of federal authority.

Next came his most cherished idea. "Let [the federal government] have a negative, in all cases whatsoever, on the Legislative acts of the States, as the King of Great Britain heretofore had. This I conceive to be essential and the least possible abridgement of the State sovereignties. Without such a defensive power, every positive power that can be given on paper will be unavailing. It will also give internal stability to the States. There has been no moment since the peace at which the Federal assent would have been given to paper-money, &c., &c." To Washington he explained how necessary it was to have "some disinterested and dispassionate umpire in disputes between different passions and interests in the State", and this umpire he felt he had discovered. "Might not the national prerogative here suggested be found sufficiently disinterested for the decision of local questions of policy, whilst it would itself be sufficiently restrained from the pursuit of interests adverse to those of the



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whole Society." Since this scheme was the original product of his political theory, it is understandable that he should be fond of it, but it is certainly instructive to find him describing it to Jefferson, the great democrat, as a means to restrain the states from passing "unrighteous measures which favor the interest of the majority".

The national supremacy must also be extended to the judiciary, for the interests of the nation could not be allowed to depend on judges subservient to the states. There must also be a national Executive, but Madison could not decide how it ought to be constituted or what its powers ought to be. The legislative department should consist of two branches. "One of them to be chosen every —— years by the Legislatures or the people at large; the other to consist of a more select number, holding their appointments for a longer term, and going out in rotation. Perhaps the negative on the State laws may be most conveniently lodged in this branch. A Council of Revision may be super-added, including the great ministerial officers."

He wished also for a clause to be introduced guaranteeing each state against internal as well as external disorders. Thus a future Shays' Rebellion would have to be waged against federal as well as state authority. And finally, the new system must be ratified not by the state legislatures, but by the people, in their sovereign capacity. "This will be the more essential as inroads on the *existing Constitutions* of the States will be unavoidable."

With these ideas in his mind, Madison went to Philadelphia.

## 3

The second Monday in May fell on the 14th, but there were not enough delegates present for the Convention to begin formal discussions. The Virginians arrived in good season, thanks to Madison's urging that the state which had called the Convention ought to have definite proposals to submit. He himself left New York on May 2, and arrived in Philadelphia on the 3rd. Washington came on the 13th, Wythe, Blair and McClurg

were there by the 14th, Randolph arrived on the 15th, and Mason two days later. These seven men met together daily and drew up the outlines of a new government, which were submitted to the Convention by Randolph on the first day of discussion, and from which the Constitution grew in the course of debate. Few persons have doubted that Madison was practically the sole author of this "Virginia Plan", as it was called. Certainly it carried out faithfully the scheme which he had sketched in his letters, adding only details, and of these the most remarkable was a provision that the Senate should be elected by the House of Representatives out of a list of persons nominated by the state legislatures. Yet Madison himself never claimed exclusive credit for the plan, and always described it as resulting from the consultations of the whole delegation.

The roll of names of the delegates included many of the first men of the country, but the greater part of the work was done by a rather small number of young men. Gouverneur Morris spoke more often than any other member of the gathering. He was a lawyer, financier and man of the world, a handsome and eloquent gentleman, but he was only thirty-three years old, and tended towards impetuosity and intolerance. James Wilson, of Pennsylvania, was 45, and stood next to Morris in number of speeches. He was calmer and wiser, admirably logical, and learned in law and government. Charles Pinckney, of South Carolina, was 29; a talented lawyer, omnivorous reader, and clear, concise speaker. He had a great influence upon the deliberations of the Convention, but his exuberance and his conceit sometimes annoyed his elders. Hamilton, whose brilliance all admired but few loved, was 31. Elbridge Gerry was 43, and distrusted democracy perhaps more openly than any other delegate. He called it "the worst . . . of all political evils". Roger Sherman of Connecticut was 66. A self-made man, he had risen from the trade of shoemaker to that of judge, and discharged his office to the general satisfaction. Yet "that strange New England cant", as William Pierce put it, which ran through his public and private speeches, rendered his best opinions "grotesque

and laughable", though "no Man has a better Heart or a clearer Head". Edmund Randolph and George Mason naturally bore prominent parts in debate.

The two most distinguished men present were the patriarchal Franklin, "the greatest phylosopher of the present age", who several times contrived to pour oil on the troubled waters of debate, and Washington, president of the Convention, without whose extraordinary influence and dignity the Constitution might never have been adopted. There were many other members whose contributions, though rare, were sometimes extremely important. William Paterson of New Jersey, representative of the small states, rose once to prominence; Luther Martin of Maryland made one speech of excessive length against the Constitution and greatly bored his colleagues; Gorham and King of Massachusetts, Ellsworth of Connecticut, and Rutledge of South Carolina spoke several times with notable effect.

Madison was then thirty-six years old. Only slightly more than five feet and six inches tall, precise in dress and manner, clothed usually in black, he was one of the least conspicuous members, although he was next to Morris and Wilson in the number of his speeches. William Pierce of Georgia made a character sketch of each of the delegates, describing Madison as follows: "Mr. Maddison is a character who has long been in public life; and what is very remarkâble every Person seems to acknowledge his greatness. He blends together the profound politician, with the Scholar. In the management of every great question he evidently took the lead in the Convention, and tho' he cannot be called an Orator, he is a most agreeable, eloquent, and convincing Speaker. From a spirit of industry and application which he possesses in a most eminent degree, he always comes forward the best informed Man of any point in debate. The affairs of the United States, he perhaps, has the most correct knowledge of, of any Man in the Union. He has been twice a Member of Congress, and was always thought one of the ablest Members that ever sat in that Council. Mr. Maddison is about 37 years of age, a Gentleman of great modesty,—with a

remarkable sweet temper. He is easy and unreserved among his acquaintance, and has a most agreeable style of conversation." The French minister also described him in 1788 as "instruit, sage, modéré, docile, studieux," more profound but less brilliant than Hamilton, and "un homme qu'il faut étudier longtemps pour s'en former une idée juste".<sup>3</sup>

His conduct and influence in the debates cannot easily be summarized. What he said was logical, relevant, and solid, although the fact that we owe the report of his speeches to his own pen may have helped to create this impression. Those of Wilson certainly seem no less so, but many of the delegates were addicted to desultory remarks, while a few were tiresomely verbose. Almost without exception, Madison was very temperate in his language, therein differing from Morris, Gerry, Luther Martin, and even Wilson. Except upon one or two critical occasions, however, there was little warmth of expression among the leading delegates, and their tempers were surprisingly well controlled. Yet despite his moderate utterances it cannot be said that Madison was distinguished as a conciliator. He did not like compromise. He was not as high-spoken as Wilson, Paterson, or Luther Martin, but he held to his policies on major issues, as we shall see, even after the Convention had finished its work. Doctor Franklin was the only benevolent mediator in the assembly, and his efforts depended for their success rather upon his amiable temper and venerable dignity than upon their intrinsic merits. But Madison does not seem to have aroused ill-feeling by his remarks at any time. He was listened to with attention and respect, and on a good many occasions his speeches actually changed the votes of some of his hearers.

Having experienced difficulties in getting at the intimate details of other confederacies, Madison resolved that the origins of this one should not pass unrecorded. "In pursuance of the task I had assumed," he wrote, "I chose a seat in front of the presiding member, with the other members on my right & left hands. In this favorable position for hearing all that passed, I noted in terms legible & in abbreviations & marks intelligible to



myself what was read from the Chair or spoken by the members; and losing not a moment unnecessarily between the adjournment & reassembling of the Convention I was enabled to write out my daily notes during the session or within a few finishing days after its close, in the extent and form preserved in my own hand on my files." From the 25th of May to the 15th of September Madison missed no more than a few moments of any session. His notes are the only ones making any pretence to completeness, and they are certainly their author's most lasting single contribution to American history. He refused to publish them or to divulge any sections of them as long as he lived, and always expressed a belief that the meaning of the Constitution should be collected not from speeches made in the Convention, but from the explanations given to the people at the time of ratification. It was the Constitution not as discussed by its framers, but as ratified by the people, that was the fundamental law of the land.

These notes explain also the use Madison made of his spare time. His industry must have been prodigious, for there was much committee work to be done outside of Convention, and a reasonably heavy correspondence to keep up at the same time. The convention met at 10 each morning, and adjourned at 3, for an attempt to move the hour ahead to 4 so interfered with the delegates' dinners that it had to be abandoned. Washington's diary records an occasional visit to the theater and rides into the country, and once or twice he met Madison on these excursions. But Madison himself had no time to write an account of his diversions, and must have had few enough.

On Friday, May 28, a quorum finally assembled. After electing Washington presiding officer, and adopting a set of rules which imposed secrecy upon each member concerning the daily proceedings, the Convention on May 29 heard Randolph review the vices of the Confederation and introduce the plan of the Virginian delegates. Next day they went into Committee of the Whole, to discuss the state of the American Union. May 30 was, in a way, the most important day of the whole convention.

For the Committee then considered, rather briefly, the resolution "that a *national* government ought to be established, consisting of a *supreme* Legislative, Executive & Judiciary". What little discussion there was concerned the exact meaning of the words italicised. Pinckney asked Randolph if he meant to destroy the state governments, and Randolph replied that he meant to take no more sovereignty from the states than would be necessary in order that the national government might defend and protect itself. The resolution then passed, and thus the most fundamental decision which had to be made was accomplished without a flurry.

Consideration of the Virginia Plan then proceeded in Committee of the Whole, and everything moved fairly smoothly towards a strong national government until June 13, when the Committee reported to itself, sitting as the Convention, the product of its labors. Then the delegates of the small states, whose alarm had been slowly growing, arose in violent protest and presented through Paterson of New Jersey a scheme of their own, providing for a considerable strengthening of the old Confederation, but retaining equality of representation among the states. Thus appeared the first of the two important disagreements in the Convention, and as the protesting members gave unquestionable evidence of their warm feelings against the larger states, while James Wilson retorted with equal emphasis, some men began to fear for the future of the Convention. "Mr. Dickinson said to Mr. Madison you see the consequence of pushing things too far."

For a month thereafter the debates were shadowed by this dispute, and gradually the schism widened, while the argument became concentrated upon the question of representation in the national legislature. Should it be proportional to population, as the report provided and as the large states insisted, or equal, as the small states demanded? Thanks to a long, able speech of Madison's on June 19, analyzing Paterson's plan and proving it an insufficient remedy for the defects of the Confederation, the Convention declined to take it into consideration. But the small

states flatly refused to agree to representation by population. So serious was the situation by the beginning of July that Franklin recommended an appeal to God, but the Convention contented itself with referring the matter to a committee, and on July 2 adjourned over the holiday to cool off. On the 5th the committee reported, recommending as a compromise that there be proportional representation in the House and equality in the Senate, with the privilege of originating money bills exclusively in the lower branch. Ten days later this compromise, with some additions, was adopted by a vote of five states to four, with Massachusetts divided. The New York delegation had gone home in a dudgeon, the New Hampshire representatives had not yet arrived, and Rhode Island never appeared at all.

This compromise, which saved the Constitution, was opposed from beginning to end by Madison. He opposed submitting the question to a committee, and he opposed the committee's report. "He conceived that the Convention was reduced to the alternative of either departing from justice in order to conciliate the smaller States, and the minority of the people of the U. S. or of displeasing these by justly gratifying the larger States and the majority of the people. He could not himself hesitate as to the option he ought to make."<sup>4</sup> He flatly denied that the government would be "partly federal, partly national" in its operation, and that therefore one branch of the legislature ought to be "federal" in character. His language became stronger than at any other time in the meetings, as indeed did that of nearly every delegate who spoke, and it was by no concession of his that the problem was solved. The truth was that by this solution the Constitution ceased to be what Madison had hoped it would be. The Senate, which he had intended to be a body characterized by age, wealth, and long tenure, had now become merely a body representing the state governments, the thing which he wished most of all to avoid. It took him a considerable time to adjust his ideas to the new arrangement.

Moreover, Madison and Hamilton perceived that the whole controversy was one without sense. The larger states were lo-

cated in widely separated parts of the country, and could have no conceivable interest in combining to victimize the small ones. The real divergence of interests was likely to be quite otherwise, and on June 30 Madison made a statement which has become famous: "that the States were divided into different interests not by their difference of size, but by other circumstances; the most material of which resulted partly from climate but principally from the effects of their having or not having slaves. These two causes concurred in forming the great division of interests in the U. States. It did not lie between the large & small States: it lay between the Northern & Southern." This carried no conviction to the followers of Paterson.

But sectionalism created its major disagreements even before the Convention was over, and led eventually to the second great compromise. Practically every man there deplored the evil of slavery, but the delegates from the southernmost states were obliged to admit that no provision against it would be tolerable to their constituents. As a part of the first compromise they had already received the presumed benefit of counting five slaves as three persons in determining representation in the House, and had granted in exchange that direct taxation should be proportional to representation. Now they insisted that Congress must be deprived of the power to tax or prohibit the importation of slaves. Furthermore they feared navigation acts, which would raise the price of freight on their exports for the benefit of the shipping interests of the north. They desired that no such act should be passed unless by the consent of two-thirds of the national legislature. The final compromise on these subjects forbade Congress to prohibit the slave trade before 1808, and in exchange allowed navigation acts to be passed, if necessary, by a bare majority. Taxes on exports were forbidden.

On these questions Madison's views coincided with those of the northern members. "Twenty years," he said, "will produce all the mischief that can be apprehended from the liberty to import slaves. So long a term will be more dishonorable to the National character than to say nothing about it in the Constitu-

tion." It is true that Virginia was, if anything, interested in abolishing the importation of slaves, for she had a superfluity of them herself, and would be glad to see the price go up. But there is no doubt whatever that Madison's opposition to slavery was sincere. On the other hand, he favored the majority vote for navigation acts, and the inclusion of a power to tax exports. The rise in freights, said he, would be followed by an increase in Virginian as well as northern shipping, an emigration of northern seamen and merchants to Virginia, an increase in maritime strength which would be of great importance for the protection of Southern commerce, and an increase in the consumption of southern goods. He talked of "National and permanent views," but argued also that the influence of the Senate, of the Executive, of the agricultural states of Connecticut and New Jersey, and of the growing west, would prevent any abuse of the power to tax exports. His speech, delivered on August 29, was more effective as argument than as prophecy. But southern members were not convinced, and on the day of this compromise began the opposition of George Mason and Edmund Randolph to the new government.

Thus Madison, the Father of the Constitution, was actually opposed to the two great compromises which made that document possible. Furthermore, the number of provisions which he wished to see included and for which he struggled in vain, is really remarkable. Foremost among them was the federal negative of state laws. The Virginia Plan provided for a power to negative all laws which contravened the articles of union, but this did not satisfy Madison, and he seconded Charles Pinckney's motion "that the National legislature shd. have authority to negative all Laws which they shd. judge to be improper." Even Morris thought this excessive, and in the ensuing debate Madison retreated somewhat from his advanced position; yet after the Convention he wrote to Jefferson that the lack of this power was the greatest defect in the national government. Again, he favored the association of some members of the judiciary with the executive in the exercise of the veto power. He

contended for the election of the President by direct popular suffrage, and for making the term of office of a Congressman three years instead of two. He wished that the Constitution should fix the salaries of members of Congress, not in dollars and cents, but by reference to the price of some fundamental product such as wheat. He wished to give Congress the power to tax exports, and to "grant charters of incorporation in cases where the Public good may require them, and the authority of a single State may be incompetent". This last proposition he moved again on the day before the Constitution was ordered engrossed on parchment, and after it had failed he had good reason to think that the creation of a national Bank was unauthorized.

On the positive side, Madison's most effective contribution in debate was his speech of June 19 against the Paterson plan. But he was also the chief defender of direct popular election of representatives, and it was on this subject that he was speaking when he described his theory of the extensive republic. Against Randolph and several others he argued for an executive of one person, and he championed against Mason and even against Morris the clause forbidding states to impair the obligation of contracts. He was the author of the clause providing for amendments, and of that conferring on Congress exclusive legislative authority over a district to be acquired for the capital city. The power to dispose of the unappropriated land of the United States, to govern territories, to regulate affairs with the Indians, and to make laws of copyright, were also included at his suggestion.

## 4

Of course the opinions which a man expressed during the Convention cannot fairly be taken apart from their context, and the context is often difficult to keep in mind. For example, a delegate of a small state speaking early in June might denounce certain provisions which he would favor after the composition of the Senate had been established. Likewise, men's feelings about the Executive were apt to go through various transforma-

tions as the mode of election of the President was changed, and a member who feared democracy when there was talk of popular elections might cherish fondly the rights of the people when there was a proposal to carry the interference with state governments further than he liked. Also there was a certain amount of actual development in most men's minds as the debates proceeded.

But it may truthfully be said that Madison's opinions, except in comparatively superficial matters, remained unchanged throughout the meetings. In the 39th number of *The Federalist* he analysed the Constitution in a general way, and found it to be *federal* in the foundation on which it was to be established, that is, in its ratification by the people of the separate states. The same principle held in part for amendments, although they might be ratified by three-fourths of the state legislatures. He found it also *federal* with regard to the extent of its powers, for the states retained supremacy save where powers were specifically given to the federal government. But considered in relation to "the sources from which the ordinary powers of government are to be derived," it appeared that the House of Representatives derived its powers directly from the people of America, and hence was *national* in character; the Senate, being elected by the state legislatures, was *federal*, and the President derived his powers "from a very compound source". And finally, since the powers of the government operated directly upon the people and not upon the state governments, the Constitution was in this respect a *national* government. It is abundantly clear that Madison agreed with all *national* provisions, and profoundly disapproved of some of the *federal* provisions, especially that relating to the constitution of the Senate.

What he thought of the fact that the powers of the government were enumerated and limited we do not know. All the evidence points to the conclusion that in this also he inclined towards the national viewpoint. He had expressed doubts about the practicability of enumerating powers, and he had consistently been on the side of those who wished to increase the scope

of federal authority. He had wished the federal government to have power over all matters which required uniformity. There were a good many things in which uniformity was not necessary, nor even desirable, and there can be no doubt that he would have opposed any such administrative centralization as that which Richelieu, for instance, had once imposed upon France. Yet Madison was, in the American sense of the word, a nationalist before, during, and after the Convention, and he opposed principally those parts of the Constitution which were federal. Even the process of amendment which he suggested was intended to be as easy a one as public opinion would be likely to allow. It is not at all improbable that Madison would have been content, at least before the Great Compromise had changed the character of the Senate, to put in the Constitution a flat provision allowing Congress to legislate "for the general welfare".

This nationalism of Madison's is entirely misunderstood unless it is referred to his doctrine of the extensive state and the "neutral sovereignty". He wished to give ample powers to the federal organization, not in order to build up an imposing and ubiquitous national authority, but in order to avoid the oppressions and iniquities of state governments, in which particular interests too easily secured a position of dominance. Within the wide borders of the nation, he thought, such interests would clash together and offset each other; diverse opinions would be refined and enlarged by the system of representation, and out of it all would emerge a federal authority sufficiently removed from the struggle to pursue in serenity the eternal principles of Justice, Wisdom and a sound currency. This was why Madison was a nationalist, and he would remain so only as long as the national government fulfilled his hopes and expectations.

It was a fine theory, and as has been said it impressed many of the delegates favorably. But there was one other concept explained to the Convention which was of profounder significance to the country than the optimistic Rationalism of Madison. On June 18 Alexander Hamilton expounded his creed in a speech lasting five hours, and scandalized some men by suggest-



ing a form of government approximating that of England. This became the most famous part of his speech, but it was not the most important. What, he asked, were the foundations of a government? They were five in number: 1. An active and constant *interest* in supporting it. 2. A general conviction of its utility and necessity. 3. The habitual attachment of the people, which resulted from the dispensation of justice. 4. Force, which was of two kinds, the coercion of laws and the coercion of arms. 5. Influence, by which "he did not mean corruption, but a dispensation of those regular honors & emoluments, which produce an attachment to the Govt". The old Confederation, he found, rested firmly upon none of these.

He then considered the possibilities for a national government, and found them slim, in view of past habits. "A reliance on pure patriotism has been the source of many of our errors." Mankind is governed by its passions, not by its reason. The government must be so constituted as to offer strong motives for its support, to interest the passions of individuals, and to turn them in that channel. "Our prevailing passions are ambition and interest; and it will ever be the duty of a wise government to avail itself of those passions." But, said he, there was little attraction in a Congress which could offer no more than three dollars a day to its members, and as for the lower house, it would be merely "a bait for little demagogues".

Society, he continued, naturally divides itself into two political divisions, the few and the many, or in other words, the rich and the poor. "This inequality of property constituted the great and fundamental distinction in Society." Give all power to the many, and they will oppress the few. Give all power to the few and they will oppress the many. "Both therefore ought to have power, that each may defend itself agst. the other." The British had adjusted this difference of interests mainly by the institution of the House of Lords, which, having nothing to hope from a change, and having sufficient wealth to be devoted to the national interest, formed a barrier against every pernicious innovation, whether attempted by the Crown or by the Commons.

Let the Senate of the United States be so constituted, then, that it will be to the *interest* of the best men in the country to give it their attendance and support. The many will be represented in the lower house, the few in the upper. The state governments must be swallowed up, in every important respect, in order that the passions and interests of the people, both rich and poor, may be directed to the support of the national government.

Had Madison but known it, this speech of Hamilton's revealed both the man and the theory which were to destroy all pretense of "neutrality" in the federal government. When Hamilton got into office, he set about immediately to enlist the "passions" of men in the government. He created a faction with an active interest in supporting the federal authority. He worked avowedly upon the principles which he had outlined in this speech, and the country has profited, or suffered, from it ever since. And then Madison, with his illusions falling about his ears, was forced into opposition.

All this, of course, was still in the future when on September 17 the Convention met for the last time. Thirty-eight men signed the Constitution, and the name of John Dickinson was affixed in his absence. Elbridge Gerry, George Mason, and Edmund Randolph were the only delegates remaining at Philadelphia who refused to sign, though Randolph with characteristic indecision announced that he did not mean to bind himself to oppose the plan among his constituents. Mason could not be reconciled to the commercial provisions.

That evening the delegates met at the City Tavern for a farewell dinner, and the next day they dispersed. Madison, after putting the finishing touches to his notes of the Convention, returned to Congress, arriving in New York on the 24th of September.

## CHAPTER VI

### *RATIFICATION—THE FIRST ELECTIONS*

1787-1789

**T**HROUGHOUT the winter of 1787-1788 Madison stayed in New York, attending the sessions of the moribund old Congress. Much of the time there was not even a quorum of states present, and there was little to be done, for "almost the whole political attention of America" was given to the new Constitution. Madison's own thoughts were entirely taken up with it; he wrote of practically nothing else, and even his activities in natural science, which had been pursued without interruption through the most difficult days of financial depression and political instability, were limited to the sending of some apple-trees to Jefferson in France.

There soon appeared three main varieties of opinion on the subject of the new system of government. Perhaps no one thoroughly approved of the Constitution in every feature, but a good many believed that it must be adopted as the only means of preserving the union. In this group Madison was numbered. There were others who held with varying degrees of conviction the belief that the Constitution presented a menace to some of the fundamental liberties of the people, or of the states, and that it should not be adopted without modifications or amendments. These might be introduced by another convention, by propositions from the states, or by the action of Congress. Finally there were a few who were suspected of opposing the idea of union altogether, and who wished to defeat the Constitution and divide into separate confederacies.

Many things served to align men in parties on the question. In the eastern states there seems to have been a definite cleavage between the educated and propertied classes and the ordinary run of people. The opposition there was economic in character and in argument, but was not very precise in drawing up its ob-

jections. It arose from a vague feeling among the poorer classes, who had learned solidarity at the time of Shays' Rebellion, that the oppressive machinations of the wealthy were greatly assisted by a strong government. Further south, on the other hand, there was no such definite formation of opinion by economic groups, for many other factors were involved.

As for Madison, it has already been shown that he did not think the new system strong enough. "I hazard an opinion," he wrote to Jefferson, ". . . that the plan, should it be adopted, will neither effectually answer its national object, nor prevent the local mischiefs which everywhere excite disgusts against the State Governments." He thought that the national authority was far too much dependent upon the states to make its resistance to them practicable. "I mean not by these remarks to insinuate that an esprit de corps will not exist in the National Government or that opportunities may not occur of extending its jurisdiction in some points. I mean only that the danger of encroachments is much greater from the other side, and that the impossibility of dividing powers of legislation, in such a manner, as to be free from different constructions by different interests, or even from ambiguity in the judgement of the impartial, requires some such expedient as I contend for." This expedient was an unlimited federal negative on state laws. If there was to be a conflict between state powers and national powers, there ought according to Madison to be no hindrance to a decision in favor of the latter, and under the proposed Constitution there was such a hindrance.

And so this uncompromising nationalist was not very enthusiastic about the new plan. Yet he supported its ratification without any public quibble or question. He did so for two reasons. First was his conviction "that the question on which the proposed Constitution must turn, is the simple one whether the Union shall or shall not be continued. There is in my opinion no middle ground to be taken." Second was his belief that no coalition could ever take place in favor of a new plan among the adversaries to the one which had been drawn up. "Were a se-

cond trial to be made, the friends of a good constitution would not only find themselves not a little differing from each other as to the proper amendments; but perplexed and frustrated by men who had objects totally different." He was right in pointing out that the weakness of the anti-federalists lay not in the absurdity of their opinions, nor in their lack of leaders, but in the fact that they did not present a clear and convincing substitute for the plan submitted by the Philadelphia Convention.

The first difficulty was to get the Constitution approved by Congress. When Madison arrived in New York, he found a distinct party of opposition, headed by R. H. Lee of Virginia and Dane of Massachusetts. They sought to attach amendments, and it was only by strenuous efforts that the defenders of the Constitution managed to have it sent on to the states without alterations, but without any words of approval or disapproval.

Meanwhile Madison found the sentiment in the country at large hard to analyze. "No decisive indications of the public mind in the North<sup>n</sup> & Middle States can yet be collected," he wrote on October 14. "The Reports continue to be rather favorable to the Act of the Convention from every quarter; but its adversaries will naturally be latest in showing themselves. Boston is certainly friendly." By the 24th he realized that there would be considerable opposition in Virginia: "Mr. James Mercer, Mr. R. H. Lee, Doc<sup>r</sup> Lee and their connections of course, Mr. M. Page according to report, and most of the Judges & Bar of the general Court" were numbered among the objectors in Virginia, with great families joining one side or the other and carrying with them their dependents, as did the nobility of England. Patrick Henry had not yet made his views known, but Madison assumed that he would be among the opposition, and it was whispered that he was one of those who favored a separate southern confederacy. George Mason's position was certain, but Randolph, who was Governor of Virginia, had not yet made up his mind. Mason published his objections, and Madison treated them in a letter to Washington with rather scant respect. On the 13th of October, Monroe wrote to say that he had objections

to the Constitution, but that the predicament of the Union was such that arguments in its favor overbalanced those against, and Madison continued for a long time to think that Monroe would defend the new system.

"I am truly sorry," he wrote to Archibald Stuart, "to find so many respectable names on your list of adversaries to the federal Constitution. The diversity of opinion on so interesting a subject among men of equal integrity & discernment is at once a melancholy proof of the fallibility of the human judgement and of the imperfect progress yet made in the science of government. Nothing is more common here and I presume the case must be the same with you than to see companies of intelligent people equally divided, and equally earnest in maintaining on one side that the general government will overwhelm the state governments, and on the other hand that it will be a prey to their encroachments; on one side that the structure of the government is too firm & too strong, and on the other that it partakes too much of the weakness & instability of the Governments of the particular states. What is the proper conclusion from all this? That unanimity is not to be expected in any great political question. That the danger is probably exaggerated on each side, when an opposite danger is concerned on the opposite side, that if any constitution is to be established by deliberation & choice it must be examined with many allowances, and must be compared not with the theory, which each individual may frame in his own mind, but with the system which it is meant to take the place of; and with any other which there might be a possibility of obtaining."

The opinion which later appeared, that the Constitution was an incontrovertible revelation of political wisdom, and was opposed only by debtors, insurgents, and the unintelligent, finds no support in the writings of Madison. In Virginia, as he put it, "the men of intelligence, patriotism, property, and independent circumstances" were divided between the two parties, and towards the end of 1787 he believed that the main body of the people tended to favor the Constitution. This afforded him con-

siderable satisfaction. "It is worthy of remark," he wrote Jefferson, "that in Virginia where the mass of the people have been so much accustomed to be guided by their rulers on all new and intricate questions, they should on the present which certainly surpasses the judgement of the greater part of them, not only go before, but contrary to their most popular leaders . . . I will barely observe that the case . . . seems to prove that the body of sober & steady people, even of the lower order, are tired of the vicissitudes, injustice, and follies which have so much characterized public measures, and are impatient for some change which promises stability and repose." He was not acquainted with the reasons which the lawyers and judges of Virginia gave for their opposition, but although he suspected their motives to be unwise, he was cautious in accusing them of self-interest.

If there appeared to be no economic division between parties in Virginia, the letters of Rufus King informed Madison that such a division was to be found in New England. The "men of letters, the principal officers of Gov<sup>t</sup>, the Judges & lawyers, the Clergy, and men of property" were there ranged solidly on the side of a stronger national government with the ordinary populace opposed. Madison thought the explanation of this "would not be very difficult", but he did not trouble to write it out. Apparently the "body of sober & steady people" in the commercial states either did not exist, or else was content with the vicissitudes, injustice, and follies of the old system. The line between the rich and the poor, Madison believed, was apt to be more precisely drawn in a society devoted to commerce than in one which followed agriculture. He thought but little of New England.

Apparently the legislature of Virginia had some confidence in the ratification of the Constitution. "We counted the money in the Treasury yesterday," wrote Stuart to Madison on December 2, "& found there £30,136:6;5 & Tobacco to the amount of £9,692:7:4½. Of this we have appropriated six thousand pounds cash & the whole of the Tobacco to the purchase of Government securities." He went on to state that the Congressional

requisition for the year would probably be passed "but I believe the funds will be doubtfull, it being the general wish to possess ourselves of a large proportion of the Publick securities before an Appreciation takes place under the new Government."<sup>1</sup> Madison could scarcely disapprove this proceeding without intimating a lack of confidence in the new government, or approve it without condoning a lack of loyalty to the old. Consequently he passed it over without mention. If the state legislature was thus looking to the future, private individuals must also have begun a little speculation on the chance that the United States debt would be paid in full. But if Madison ever worried about such things he did not commit his worries to paper.

There was no doubt that the passage of time increased the strength of opposition to the constitution in Virginia. Patrick Henry soon made up his mind, and used all his talents to raise a party for its defeat. The situation grew rapidly more critical for those who desired ratification. On January 10, 1788, Madison wrote a skillful letter to the wavering Randolph, who vaguely hoped for a second convention to repair the defects and supply the omissions in the new plan. To him Madison set forth that the opponents of the Constitution in many states were definitely aiming at a dissolution of the Union, or at other reckless schemes. "Nothing can be further from your views," he wrote, "than the principles of different sets of men who have carried on their opposition under the respectability of your name." He pointed out the folly of hoping for agreement in a second convention, and contended that even if such a meeting should be held, and should improve upon the Constitution, the event would be extremely precarious. His argument is interesting, coming from an avowed republican. "Whatever respect may be due to the rights of private judgement, and no man feels more of it than I do, there can be no doubt that there are subjects to which the capacities of the bulk of mankind are unequal, and on which they must and will be governed by those with whom they happen to have acquaintance and confidence. The proposed Con-



stitution is of this description. The great body of those who are both for and against it must follow the judgement of others, not their own." Having thus made it clear that the people of the United States did not know enough to determine their own form of government, Madison continued: "I infer from these considerations, that, if a government be ever adopted in America, it must result from a fortunate coincidence of leading opinions, and a general confidence of the people in those who may recommend it. The very attempt at a second Convention strikes at the confidence in the first."

Randolph's duty was thus delicately pointed out to him. If he approved the general nature and objects of the Constitution, he must support it openly, considering himself not merely as one individual in a great state, whose opinions were his own private concern and whose painstaking scruples did him honor, but as a member of the aristocracy, whose duty it was to maintain as far as possible a united front against error, for the inspiration and guidance of the lower orders. It was a judicious hint, but it had no effect. Randolph became less hostile, but in April he was still waiting on the attitude of Maryland before making up his own mind.<sup>2</sup>

Madison was an assiduous correspondent during this winter, but his most brilliant accomplishment was his contribution to *The Federalist*. Soon after the end of the Convention, Hamilton conceived the idea of undertaking a systematic defense of the Constitution in a series of articles for the newspapers, and, after carefully planning the work, he enlisted Madison and Jay to help him. The first article came out in the *Independent Journal*, on October 27, 1787, and in the course of the next seven months the remaining eighty-four were printed. They were then collected in two volumes and published under the title by which they have ever since been known. There was a great deal of controversy over the Constitution in the newspapers, and many of the objections which were published were well taken. No one knew very much about federal governments, and respectable opinion was justified in condemning the Constitution as a tissue

of new-fangled notions, contrary to the best traditions of political theory and experience. The fact was that even the most educated minds could not understand it, and a good commentary was as necessary for its defenders as for its opponents. This commentary *The Federalist* provided, and its value was not limited to that year of ratification, but became permanent.

There has been a great deal of argument about the authorship of certain of the papers. They were first published, according to the custom of the time, over the name "Publius", and the names of the three authors remained a more or less open secret for several years. Then in 1810 an edition of the works of Hamilton was published, including a set of the *Federalist* papers, and attributing many of them to his authorship. In 1818 Madison sent a publisher a copy of the work, marking each paper with the name of its author, and claiming for himself several of those attributed to Hamilton in the edition of 1810. On the whole, it seems likely that Madison was right, but neither man is accused of anything worse than a mistake, for the papers were written in such haste and contained ideas so familiar to each writer, that it was quite possible for both to be in error ten years after the first printing. Madison certainly wrote numbers 10, 14, 37-48, and 18-20, although the three last may have been done in direct collaboration with Hamilton. He almost certainly wrote numbers 49-51, and probably also numbers 52-58, 62, and 63. From a purely historical point of view, the question is of no great importance, for the two men were substantially in agreement.

Madison's first two papers contained his theory of the extensive republic, with its balancing factions, and they were designed to refute those who argued from Montesquieu that republicanism was doomed to failure in such a large territory as the United States. The tenth number contains his remarkable observations on the economic background of politics which have already been outlined. In the fourteenth paper he begged the conservative people of the country not to be afraid of the new scheme because

it was a novelty, and to remember that the glory of America consisted in the innovations which she had fostered.

But his chief contribution is in his general analysis of the Constitution, contained in papers 37 to 51. It was a difficult task to prove that the new government did not offend against the principles of liberty and of republicanism, that it offered no serious menace to the states, that its *national* characteristics were balanced by *federal* features which made the whole a unique political invention, admirably calculated to meet the peculiar needs and safeguard the natural rights of the American people. Probably few opponents were converted by his arguments, for the papers did not have a great circulation at the time, nor was the writing of a kind to find a wide circle of readers. Bishop James Madison, from Williamsburg, avowed himself convinced by Publius, but only the best educated were likely to read him at all.

Some have discerned in *The Federalist* a difference between the attitude of Madison towards the Constitution and that of Hamilton which foreshadows later disputes between the advocates of "strict" and of "broad" construction. It is contended that Madison showed a tendency to confine the scope of federal authority within cramping limits. In No. 41 he asserted that the power "to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States" must be understood as explained and qualified by the enumeration of powers which followed. This interpretation has not been upheld, and many of the extensions of federal authority have been based upon the power to lay and collect taxes for the general welfare. It happened, however, that Madison never changed his mind.

But it seems more legalistic than historical to read back future controversies into the attitudes of the authors of *The Federalist*. For politicians, if not for judges, constitutional interpretation is little more than a rationalization of current prejudices. It fol-

lows the needs of the moment. In 1788 both Madison and Hamilton were primarily concerned with proving that the Constitution ought to be ratified. Consequently they each tended to harp rather more on what the federal authority would not do than on what it would do. It fell to Madison to write on the enumerated powers, and he set them forth as favorably as possible. Years were to pass before he settled down into a fairly consistent habit of constitutional interpretation, and even then he wavered in times of crisis. A series of actual political issues, and not the mere text of the document, were required to determine his attitude.

One or two instances may be cited to substantiate this view. If the conclusion of No. 41 shows Madison as a "strict constructionist" of the taxing power, No. 44 displays him putting the broadest interpretation on the "necessary and proper" clause. "Wherever the end is required," says he, "the means are authorized; wherever a general power to do a thing is given, every particular power necessary for doing it is included." Here is the pure doctrine of Hamilton's Report on the Bank, and Marshall's decision in *McCulloch v. Maryland*; and perhaps the word "every" indicates a construction even stronger than was offered by those two staunch Federalists. Yet Madison attacked both Hamilton's Report and Marshall's decision when they came out. Again, we find Hamilton in No. 26 and Madison in No. 44 agreeing that the state legislatures will ever be ready to "sound the alarm" to the people at the sign of unconstitutional acts by the federal government. Yet when Virginia sounded an alarm in 1790 and again in 1798 Hamilton was scarcely sympathetic. Since it was a work of keenest analysis, *The Federalist* was bound to reveal in the Constitution the possibilities of future controversy, but it cannot be said that it indicated any real disposition in Madison towards a system of strict construction. His letters to Jefferson, written at the same time, reveal if anything a tendency in the opposite direction. He still had hopes of a "neutral sovereign".

Meanwhile the ratifications of the Constitution began. Dela-

ware, Pennsylvania, New Jersey, Georgia, and Connecticut had taken favorable action by January 9. The small states mustered little opposition to a system which so admirably protected their interests, but there is no doubt that the Pennsylvania convention was purposely summoned with indecent haste, and did its work before any party to prevent it could be properly organized. The Massachusetts convention met in January, and its decision hung in the balance, to the great distress of Madison, until February 6, when by the narrow margin of 187 to 168 votes the ratification was passed. In New Hampshire the convention met, disagreed, and adjourned without action, for several members whose constituents opposed the Constitution had become converted to its favor by the debates, and desired to go home for further argument with the voters.

On October 25, 1787, the Virginia Assembly had voted that elections should be held in March for a convention to convene in Richmond on June 2 and discuss ratification. Madison first thought that those who had participated in writing the document ought not to have a part in ratifying it, but he later changed his mind and agreed to be a candidate for election, "as I have reason to believe that many objections in Virginia proceed from a misconception of the plan or of the causes which produced the objectionable parts of it, and as my attendance at Philadelphia may enable me to contribute some explanations and informations which may be of use."

About the middle of January the general prospects in Virginia seemed better. Stuart wrote from Richmond on January 14 that "the anti-constitutional Fever which raged here some time ago begins to abate & I am not without hopes that many patients will be restored to their senses." Edward Carrington thought that "the leaders of the opposition appear generally to be preparing for a decent submission." *The Federalist*, they reported, was much esteemed, and a few leading citizens had become converted to the side of the constitutionalists. But it was no time for overconfidence.

In Madison's own countryside things did not look as promis-

ing. His father wrote to him on January 30 that Colonel Barbour would be a candidate for the convention, and that he was much opposed to the ratification. It appeared also that some of the local farmers who had journeyed to Richmond with their tobacco had listened to arguments there which had turned their original enthusiasm into opposition. The Baptists had been stirred up by Patrick Henry and his disciples, and were solidly against ratification. "I think you had better come in as early in March as you can," wrote the elder Madison. "Many of your friends wish it; there are some who suspend their opinion till they see you, & wish for an explanation, others wish you not to come, & will endeavor to shut you out of the Convention, the better to carry their point." A correspondent less optimistic than Stuart and Carrington wrote on February 18: "Never perhaps was a state more divided than Virginia is on the new Constitution—it's fate appears to hang in great measure on the decision of Massachusetts Bay."<sup>3</sup> The narrow decision in Massachusetts was little better than a defeat; there was great opposition in New York; there was a certainty of defeat in Rhode Island, and it began to appear that the decision of Virginia might be the most critical of all.

Madison left New York on March 4, and arrived in Orange on the day before the election. He made but one speech, but was elected by a large majority, together with James Gordon, another federalist. The Baptist vote went for the Constitution, because of a fortunate meeting between Madison and the Reverend Mr. Leland, an influential leader of that sect. Tradition asserts that this meeting happened under a grove of trees, as Madison was nearing Orange in his journey from New York, and that after a conversation of some hours Mr. Leland became converted to federalism. It was at any rate the first fruits of Madison's early struggles for the non-conformists, for they had reason to believe in his sympathy and judgement.

The elections showed a very even balance between the opponents and the friends of the Constitution. Madison avowed himself unable to determine what the outcome of the Convention

might be, although it seemed probable that the federalists would have a very slight majority. As late as April 22, however, the returns from Kentucky were still unknown in the east, and it was plain that the western members would be sufficient to turn the majority either way. South of the James River the elections, according to Carrington, had "been made in a Phrenzy, and terminated in deputations of weak and bad men".<sup>4</sup> This was Patrick Henry's stronghold, and was violently anti-federalist. George Mason and R. H. Lee collected their forces against the ratification, and it became evident that the very slightest influence upon either side would be enough to turn the scale. Many men waited to hear the decision of Maryland or of South Carolina before making up their minds, while at the same time some of the leaders in those states were disposed to wait and see what Virginia would do. In Kentucky men worried about the influence of the new government upon the navigation of the Mississippi.

Madison, like every other leader who had taken sides, passed these weeks in writing letter after letter to various critical persons or districts. He urged his friends in Maryland and South Carolina to push their states on to a favorable decision; he wrote vast epistles to Kentucky, proving that the new government could not possibly prejudice the navigation of the Mississippi, and might more probably be able to open it; he implored Randolph to come to a decision; he answered innumerable objections to the Constitution.<sup>5</sup> Madison had no doubt that some of his opponents, especially Henry, were deliberately aiming at breaking up the Union, and Washington thought that many of them feared that a strong central government would rob them of the power and fame which they enjoyed in the provincial politics of the states. Yet Madison wasted few words in denouncing his opponents, and in fact treated them with rather more consideration than historians have been apt to do since those days. He had swallowed too many of his own objections to fail in respect for those of Lee and Mason.

Jefferson had now had time to communicate his views and

add his influence. But he was conspicuous in his lack of enthusiasm for the new plan, and he added no weight whatever to the side of the federalists. To Madison he confided his objections to the Constitution, which were principally that a bill of rights was omitted, and that the President was eligible for reelection. Both of these were justified, although there was a good argument against the second. The authors of *The Federalist* opposed a bill of rights as not only superfluous but dangerous, for it would by its very specification of prohibitions lead to the belief that Congress had more powers than were named in the Constitution. Time was to show that the interpretation of the "necessary and proper" clause would be such that a bill of rights was not inappropriate.

Jefferson was no friend to a strong government, having observed at close hand the iniquities of the French monarchy. He did not take the actual condition of affairs in the United States nearly as seriously as did Madison, who lived among the difficulties and troubles of Congress and the State legislature. When the news of Shays' Rebellion penetrated to France, Jefferson expressed a genial approval of the spirit which could keep a government looking to its justice, and he scandalized generations of Federalists by opining that a bit of revolution once in twenty years was a good thing. On May 28 Daniel Carroll wrote to Madison, relating the gossip of the Maryland Convention which had finally ratified the Constitution by a huge majority a month earlier. He reported that a letter from Jefferson had been handed about, saying that "the Rebellion in Massachusetts is one in 11 years since our Independence, which is *one in each State* for about 150 years which no Gov<sup>t</sup> should be longer without." "Can this possibly be Jefferson" asked the horrified Carroll.<sup>6</sup> But Jefferson was mildly in favor of the Constitution, and hoped that nine states would ratify it, after which some aspects of it might be clarified and made more specific by amendments.

On June 2 the Convention met in the State House, and found



to its astonishment that there was already a quorum present. It was a dry and dusty season, and Richmond was full of people, though it is not clear whether they had come to witness the great debate on the Constitution or to enjoy the annual horse-races, which provided a counter-attraction. The State House was too small to hold the 170 delegates with their audience, and so the statesmen adjourned to the "New Academy on Shockoe Hill".

It would seem that the federalists were admirably organized, managed their parliamentary tactics with great skill, and missed no opening which the more careless anti-constitutionalists gave them. Their first move was to elect the aged and respected Pendleton president of the Convention, thus winning the influence of the presiding officer for the ratification. Next they seized upon the chance given them by George Mason, who moved that the Constitution be discussed clause by clause, before any general question should be taken. Since the federalists had most to fear from an open debate on the merits of the scheme as a whole, this was a major victory for their side. From this point on through the meetings they marshalled their speakers in the most telling order, made concessions at just the right moment, and conducted the whole business without a mistake.<sup>7</sup> Whatever preliminary tactical planning was done on the spot, however, was done without the assistance of Madison. He arrived in Richmond on the evening of the day that Pendleton was put in the chair, and was considerably surprised to find that meetings were already under way. By the 4th the Convention had finished its organization and could get down to business, in Committee of the Whole.

There was little to choose between the two parties. Patrick Henry, George Mason, Benjamin Harrison, William Grayson, John Tyler, and James Monroe formed an extremely able group of debaters; Henry wielded more personal power than any other man in the gathering. They were in no way inferior to the federalists, either in learning, wealth or gentility. On the other hand, the supporters of the constitution, led by Madison, George and Wilson Nicholas, Pendleton, Henry Lee, and George Wythe,

were decidedly inferior in the appeal which they made to the people at large, but were enormously assisted by the known opinions of Washington, who was not a member of the Convention. In the minds of the general public the great question was about the attitude of Governor Edmund Randolph. It is probable that Washington knew of his decision, and perhaps Madison suspected it, but when on the first day of business he declared in favor of the Constitution without previous amendments, it was probably the most important single event in the course of the meetings. The real issue was not so much whether the Constitution should be summarily rejected, but whether it should be ratified with "previous amendments"; that is, whether certain amendments should be adopted before the ratification, and the ratification regarded as conditional upon the adoption of equivalent amendments by the other states. Madison regarded such a procedure as tantamount to a rejection of the whole scheme.

Practically the entire brunt of the debate for the federalists was borne by Madison. He made four long speeches analyzing the Constitution in a general way, stating the reasons why a Union was necessary and why such a plan as that proposed was inevitable if the Union were to be maintained. Thereafter he spoke very often, but briefly, answering objections, explaining details, allaying fears. He was overworked and overstrained, and for several days after the opening of the Convention he was confined to his room with a bilious attack. He recovered slowly, and his exhaustion was such that the reporter was often obliged to record that he spoke too feebly to be understood. Yet he achieved in those days the greatest personal triumph of his career; and John Marshall said of him later that if eloquence included persuasion by convincing, "Mr. Madison was the most eloquent man I ever heard".

His arguments were essentially those of *The Federalist*, and need not be recapitulated. The reasonings of the opposition, which had not been very clear to him, were now brought into the open. Henry was naturally the stoutest champion of his party,

but it must be said that the speeches of Mason and Grayson read more convincingly. Henry spoke much of liberty, of those "poor little maxims" of the Virginian Declaration of Rights, which he claimed were menaced by the new government. Standing armies would be created, said he, the tax collectors and excisemen would force themselves into every yeoman's home, the President would become a tyrant, and so on. The Constitution displayed, according to him, an "awful squinting toward monarchy". Towards the end of the Convention he played his trump card, and skillfully hinted that the Mississippi would be closed by the new President and Senate. None of his objections have proved to be very well founded, but he could scarcely foresee that. Madison answered them as best he could, and was especially successful in pointing out that the Kentuckians need have no fear for the Mississippi, but in fact might expect that a stronger national authority would have more success in extorting from Spain the right of free navigation than the Confederation had achieved. Despite his words, ten of the fourteen crucial Kentucky votes were given to the Anti-federalists.

Monroe found his chief objection to be against the power of Congress to levy direct taxes. Others objected to the army and navy, to which Madison replied, prophetically enough, that England and France would probably go to war, and cause the United States either to withdraw from profitable commerce, or submit to the spoliations of the British navy, unless able to defend her neutrality. Grayson ridiculed this notion; said that the North would oppress the South, and in the event of an Anglo-French war American commerce would not be worth the cost of a fleet to defend it.

It is to be remarked that the Anti-federalists did not object to the clause prohibiting the issuing of paper money by the states. Mason nevertheless expressed a fear that the prohibition of *ex post facto* laws would be so construed as to make necessary the redemption of all the old paper money at par, to the impoverishment and distress of the people. He tried in a vague way to indicate that the Constitution had been made for the well-born

and the wealthy, and against the interests of the common people. Henry took this up, and made it evident that the enrichment of speculators in government securities would be one result of the establishment of the new government. To this Madison replied that the Constitution had carefully left all such obligations in exactly the same state as they existed under the Confederation, and had refrained from specifying that they be paid in full. He remarked that there always had been speculation, and always would be, and that it would probably be less of an evil under the influence of a stable government than among the uncertainties of the old.

Then they urged that the rigorous fulfillment of contracts which was enjoined by the Constitution would be oppressive to debtors. "I know not how this can be conceived," replied Madison. "I will venture one observation. If this system should have the effect of establishing universal justice, and accelerating it throughout America, it will be one of the most fortunate circumstances that could happen for those men. With respect to that class of citizens, compassion is their due. To those, however, who are involved in such incumbrances, relief cannot be granted. Industry and economy are the only resources.—It is vain to wait for money, or temporise. The great desiderata are public and private confidence. No country in the world can do without them. Let the influx of money be ever so great, if there be no confidence, property will sink in value, and there will be no inducements or emulation to industry. The circulation of confidence is better than the circulation of money." This has, indeed, a modern sound.

On the whole, the arguments of the Anti-federalists were political rather than economic in their nature, betraying a fear of excessive authority, of irresponsible Congresses, of burdensome taxes, of unwelcome intimacy with the North, of tyranny rather than of oligarchy. Their desires, in so far as they envisaged a union at all, were for a clearer definition of federal powers, a stricter limitation of national authority, a greater assurance of freedom for themselves in the government of their own state,

which they knew and loved. And when all the historical, legal and political learning had been displayed on each side, Madison answered these contentions with what was perhaps the soundest sentiment heard in the meetings: "I go on this great republican principle, that the people will have virtue and intelligence to select men of virtue and wisdom. Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks—no form of government can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people, is a chimerical idea."

As the Convention progressed, Madison wrote weekly reports to Hamilton, and occasional letters to Washington and to others. He was never able to predict the outcome with any great confidence, but tended to think that the constitutionalists would have a majority of four or five. After Henry brought up the Mississippi question, the cause was in "the most ticklish state that can be imagined". Finally, on June 24 the aged Wythe arose and moved that the Constitution be adopted without previous amendments, promising that after ratification some modifications could be secured. Then Patrick Henry made his last great effort. In a speech of extraordinary intensity, of which the histrionic effect was heightened by a thunder storm, he appealed to the delegates. It was a dramatic occasion, but eventually the orator and the storm subsided, and George Nicholas moved that the question be taken on the following day. On June 25, the Constitution was ratified by a vote of 89 to 79. Eight members voted contrary to the express wishes of their constituents, and two disregarded specific instructions. It would seem, therefore, that some converts were made by the speeches in convention.

There was now revealed the part which Governor Randolph had played. While Henry was making his speech, there lay on the table of the newly convened House of Delegates a letter from Governor Clinton of New York to Governor Randolph of Virginia, written more than three weeks before the Virginia Convention assembled. Clinton, a strong anti-constitutionalist, wrote that the New York Convention, which was to meet on

June 17, would be glad to hold communication with any other state on the subject of a second convention, and would especially welcome negotiations with Virginia. Had Randolph published this letter when he received it, there can be no doubt that it would have brought a victory for the Anti-federalists in the convention, for they would have been able to deny some of Madison's statements about the impracticability of a second convention, and by entering into communication with strongly anti-federalist New York they could have delayed, and possibly demolished the new constitution.

But Randolph kept the letter until June 25, and when it was given to the House of Delegates, they had nearly all gone to the Convention to hear Henry speak. After ratification the letter was discovered, and the fury of the defeated party is easy to understand. Mason prepared resolutions for investigating the conduct of the Governor, but they were never offered.

With the successful termination of the Virginia Convention, Madison reached what has usually been agreed to be the height of his career. It had been a notable victory. Without much doubt, the greater number of people in Virginia were opposed to unconditional ratification, and they had strong leaders. The success was due largely to the moral influence exerted by Washington, and to the telling arguments of Madison. There was no disturbance among the defeated party, but they were unbowed. "Mr. H——y declared previous to the final question that although he should submit as a quiet citizen, he should seize the first moment that offered for shaking off the yoke in a *Constitutional* way. I suspect the plan will be to engage 2/3 of the Legislatures in the task of undoing the work; or to get a Congress appointed in the first instance that will commit suicide on their own Authority." <sup>8</sup>

## 3

Madison set out for New York again early in July, and had resumed his seat in Congress by the 16th. There was much yet to be done, even though it was certain that the Constitution

would be put into operation, for the danger now was that either by amendments introduced into the first Congress, or by the calling of a second Convention, some successful attack might be made upon a vital part of the new system. As Madison well knew, there was a great deal of anti-constitutional sentiment in every state, but especially in the larger ones. This seemed to be concentrated in opposition to a provision which has in fact been most innocuous, that giving Congress the power of direct taxation. After the Virginia Convention, Hamilton wrote to Madison congratulating him upon the outcome, but expressing a hope that there would not be too much talk of amendments. "I fear the system will be wounded in some of its vital parts by too general a concurrence in some very injudicious recommendations. I allude more particularly to the power of taxation. The more I consider *requisition* in any shape the more I am out of humor with it." Tench Coxe wrote from Philadelphia that although the opposition had become comparatively silent there was much talk of amendments, and "among them is *constantly* the resumption of the power of direct taxation". Madison replied that "the conspiracy against direct taxes is more extensive & formidable than some gentlemen suspect. It is clearly seen by the enemies to the Constitution that an abolition of that power will re-establish the supremacy of the State Legislatures, the real object of their zeal in opposing the system."<sup>9</sup> He felt that the new government could not possibly exist without this power, for it would again be left dependent upon requisitions for any money needed beyond the modest amount which would flow from import duties. This would doubtless be sufficient in time of peace, but for any emergency would be quite inadequate, and the case would be as hopeless as before.

Meanwhile he participated in the first of that long series of sordid political manoeuvrings concerning the location of the new national capital. It was fairly easy to fix the date for the opening of the new government and to settle other details, but the determination of a place of meeting taxed the wits of statesmen and the patience of the country. A temporary residence

was necessary until a place not exceeding ten miles square should be decided upon for a permanent abode. Here was a fine chance for sectional haggling, and it was utilized to the full. Madison, like other Southerners, had early formed his hopes for the banks of the Potomac, and that location had the merits of being centrally located, and well removed from the contamination of cities. But the Easterners wanted the capital nearer home, and some thought that it should be closer to the amenities of civilization than was the village of Georgetown.

The game was somewhat as follows: If New York were chosen as a temporary residence, it would be so obviously wrong geographically that the Southern and Western members would be annoyed with the new government at once. Furthermore, there would probably be a quick change to a permanent residence, and such a quick change would probably land the government on the banks of the Susquehanna or the Delaware. If Philadelphia, on the other hand, were chosen for a temporary residence, it would be more generally agreeable, there would not be such a likelihood of a premature location of the permanent residence, and during the interim there would be a sufficient influx of western members from new states to increase the chances of the Potomac. Madison regretted that the first steps in starting the new system should be taken in such an unpleasant fashion, but the Congress saw fit to fuss about it for a long time, while the members gradually dropped away, and finally fixed on New York as the first place of meeting for the government which should begin, as it happened, on March 4, 1789.

In various ways the new order began to take shape. As reports gradually came in concerning the elections of Senators, they seemed favorable to the federalist cause. It was a great relief to hear from Tench Coxe that Pennsylvania had selected besides Robert Morris, whose sympathies were undoubted, an "Agricultural Senator" named Maclay, who was a "decided federalist", possessed of landed property "with a law Education, a very straight head, of much more reading than the country Gentlemen in the middle states usually are, a man of fair character and



great assiduity in business". He had been selected unanimously by the anti-federalist party, and as the malcontents in Pennsylvania were accounted dangerous, it seemed a good omen.<sup>10</sup> Before many months it became clear that the greater number of the States would not seek to make any material changes in the government, and by the first week in December, Madison was able to write Jefferson that the Senate would certainly be friendly to the Constitution.

It was a foregone conclusion that Washington would be President, though it was whispered that Patrick Henry hoped to see George Clinton elected. About the Vice-President there was more doubt, and at the end of October the choice was supposed to lie between Hancock and John Adams. Madison gossiped about them to Randolph: "The former is far the more popular man in N. England, but he has declared to his lady, *it is said*, that she had ever been the first in America, and he would never make her the second. On the other hand Adams has signified, *it is said*, that he will serve the public in no other office. I disbelieve neither of these anecdotes. At the same time it is very possible they may be given out for particular purposes."<sup>11</sup> It did not require this early whispering campaign to make Madison disapprove of John Adams, with whose political theories he did not agree, and whom he suspected of "extravagant self-importance", and of rivalry to Washington. Not until Adams had publicly promised to support Washington did Madison cease to make objections to him. Hancock he thought "weak, ambitious, a courtier of popularity, given to low intrigue, and lately reunited by a factious friendship with S. Adams".

Prosperous as the cause of federalism seemed to be in general, a less cheerful story was heard from Virginia. There the anti-constitutionalists seemed to be having their own way without much opposition, and they were greatly encouraged by the painful struggle between the two factions in New York. Randolph himself voiced ominous fears to Madison: "I confess to you without reserve that I feel great distrust of some of those who will certainly be influential agents in the government, and

whom I suspect to be capable of making a wicked use of its defects. Do not charge me with undue suspicion; but indeed the management in some stages of the convention created a disgusting apprehension of the views of some particular characters. I reverence Hamilton, because he was honest and open in his views.”<sup>12</sup> Filled with these alarms, and responding to what appeared to be the trend of political feeling, Randolph joined Pendleton in the ranks of those desiring a second Convention, to repair the suspicious “defects” in the constitution. George Nicholas and Marshall returned to the practice of law, and when the legislature met late in October Henry, Grayson, Monroe and Harrison held sway, being opposed by no more important federalist than the young Francis Corbin. On October 27 Henry introduced a set of Resolutions, setting forth that “Many of the great, essential, and unalienable rights of freemen, if not cancelled, were rendered insecure under the Constitution,” and calling upon Congress to summon a second convention. The hopeless minority of federalists fought these bravely, but they had no chance. “Would to Heaven you were here,” wrote Turberville to Madison.

In response to inquiries, Madison announced early in October that he would prefer to serve in the new House of Representatives, if he should take any part in the new experiment. His friends insisted that he ought to be in the Senate, and nearly everyone thought, erroneously as it happened, that the upper house would be of far more weight and importance than the lower. Madison clearly regarded it still as a stronghold of wealth and dignity, for though not a poor man, he declared that the House of Representatives would “less require a stile of life with which my circumstances do not square, & for which an inadequate provision only will probably be made by the public”. There was in any case little chance that the legislature of Virginia, constituted as it was politically, would elect him. Patrick Henry, when the occasion arrived, delivered a philippic against him, and as Henry Lee informed him, “pronounced you un-

worthy of the confidence of the people in the station of Senator. That your election would terminate in producing rivulets of blood throughout the land".<sup>13</sup> The prediction of such a modest carnage inadequately displayed the powers of Henry's imagination, but it was sufficient for the needs of the moment. R. H. Lee received 98 votes, Grayson 86, and Madison 77, which was rather more than he might have expected. Virginia was therefore to be represented in the Senate by two anti-federalists, both of whom were able and honest men. Madison's friends were more disappointed than he, and Corbin wrote rather harshly that the assembly were an ungrateful crew, and that "if you could see them you would agree with me that it is honorable not to be Esteem'd by them".<sup>14</sup>

Strangely enough, the legislature re-elected Madison to the old Congress. This was scarcely a tribute, and it was said that Henry brought it about in order to keep him out of Virginia. However this may have been, the dominant party soon turned its attention to the formation of the congressional districts. The result of their deliberations was awaited with some anxiety by Madison, for it would be quite possible for them to make his election to the House impossible by associating anti-federalist counties with Orange in his district. Edward Carrington wrote on November 15, informing him that the worst had been done, and that his district would consist of eight counties, whose majority would probably be anti-federal.

There were some who thought that he might be more valuable in the administration. Washington inclined to believe that he should be Home Secretary; Henry Lee even hoped that a failure in the elections would occur, leaving him free for the Cabinet. But Hamilton was of a different mind. "I could console myself for what you mention respecting yourself," he wrote, "from a desire to see you in one of the Executive departments, did I not perceive that the representation will be defective in characters of a certain description." Pointing out that Wilson, King, and G. Morris would not be there, he added: "If you are not in one

of the branches, the Government may severely feel the want of men who unite to zeal all the requisite qualifications for parrying the machinations of our enemies." <sup>15</sup>

Madison could not make up his mind whether or not to go to Virginia for a little campaigning. Hamilton advised him to do so, and the Virginian federalists implored him to come. But he avowed a dislike for electioneering, especially in a hostile constituency. Moreover, his re-election to the old Congress had involved him in something of a dilemma. If he went to Virginia, he would be neglecting the duty with which the legislature had entrusted him, and although he knew well that this was no good argument, since Congress had practically ceased to do business, he realized that it might be used against him by opponents. In November, before hearing of his re-election, he came as far as Philadelphia, and remained there for some weeks. During the first ten days of December, he received word of the districting, and finally decided to go home. He did so with reluctance, and wrote to Jefferson that "from the best information I have of the prevailing temper of the District, I conclude that my going to Virginia will answer no other purpose than to satisfy the Opinions and entreaties of my Friends". He was unwell, made a slow journey, and had to cover the last part in a "chair" rather than on horseback, which was his normal mode of travel between Fredericksburg and Orange.

The election turned out to be a brisk contest. There were only two candidates for the district, and Madison's opponent was no less a person than Monroe. Madison had to combat all sorts of unpopular reports which had been circulated about him. George Nicholas wrote to him about them: "Every art has been used to prejudice the minds of the people against you. They are told, that you tricked this country into the business by the manner in which you first proposed a general convention to our legislature; that you had a chief hand in sending forth the constitution from the convention without the amendments generally wished; and that you are now opposed to all amendments. These things I believe originate with Henry . . ." <sup>16</sup> In spite of his professed dis-

like for it, Madison went in for a good deal of electioneering, wrote many letters, and visited the neighboring county seats on their court days. He and Monroe were old friends, and their amiable relations were not in the least strained. They debated against each other, and Madison in his old age was fond of relating how they had gone up country one day to talk to a "nest of Dutchmen". The meeting was held in front of a church; two fiddles provided music, and the candidates talked about the Constitution while the Dutchmen stood patiently in the snow. Before Madison got home he had his nose frost-bitten, and later took some pride in this "scar received in the service of his country".<sup>17</sup>

Early in January he authorized a public statement of sentiments which he had privately written to Jefferson in the previous October: that he was in favor of certain amendments to the Constitution, although he did not share the feeling of many that the document as it stood was a menace to human liberties. He repeated his conviction that amendments before ratification would have been disastrous, and he announced his disapproval of a second convention. But amendments might be introduced into Congress in the prescribed manner, and he felt that they might be a help to the government, for they would do no harm, and might remove the objections of some friends of liberty who were at the time anti-federalists. Those which he recommended were of the nature of a bill of rights, and had no relation to the structure of the government itself.

As a result of this statement, and of his campaign, he was elected by a comfortable majority. This was no small achievement, if the politics of the state were actually as anti-federalist as they had been described. But when the results had come in, it was found that seven of the nine Virginian Congressmen were Federalists, which makes it appear that the sentiment of the country may have been different from that of the legislature. There was no further cause to fear that the new system would be embarrassed at its very beginning. Madison was upon the point of commencing the second stage of his political career.

## CHAPTER VII

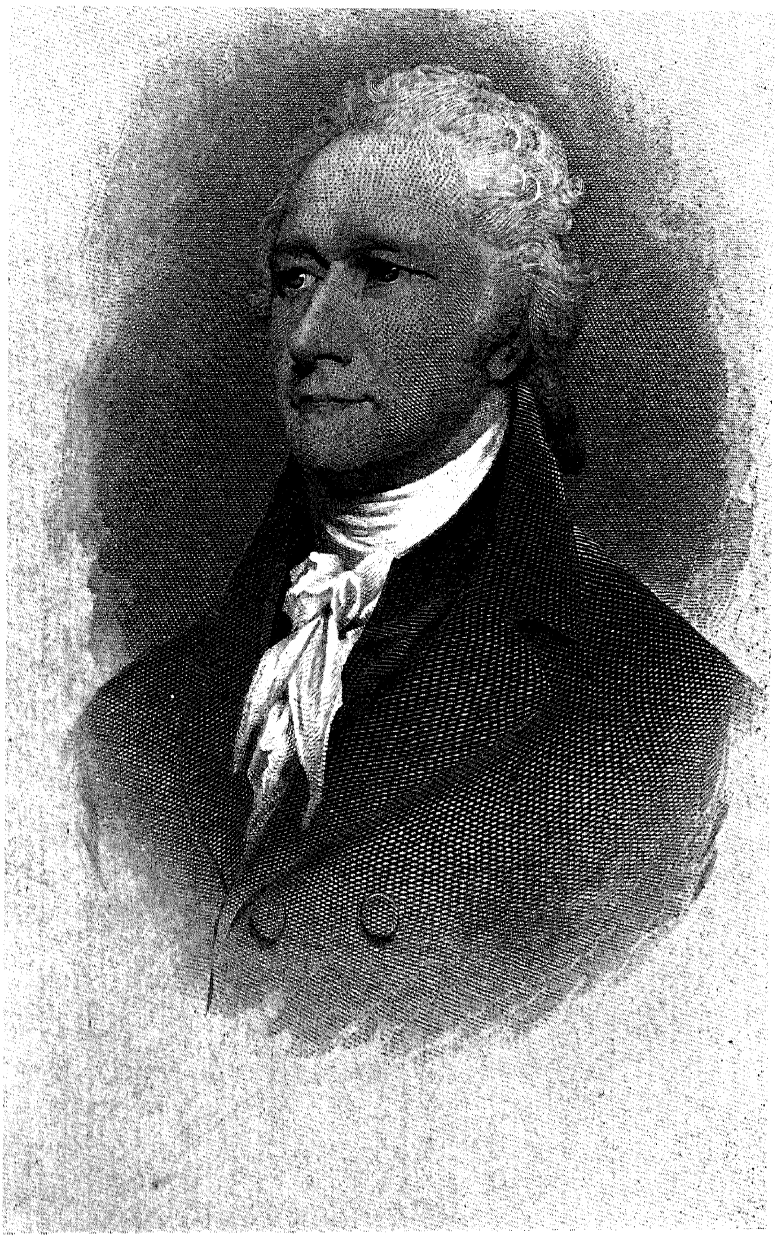
### "A MORE PERFECT UNION"

1789-1790

ON March 2, 1789, a Mr. Philip Pell of New York managed to achieve a curious fame by presenting himself at a meeting of the Congress of the United States. The Secretary, Mr. Thomson, put his name down, but no other member appeared. It so happened that no one ever came again, and thus the Confederation, in the person of Mr. Pell, obscurely celebrated its last days, and quietly passed away.

On March 4, 1789, the cannon in New York saluted the beginning of a new dispensation, but there was no government to receive the salute. A week later there were only six Senators in New York. Two weeks, and three weeks passed, and neither House had a quorum. It looked as if the old troubles of the Confederation were to be repeated, and in fact no one knew whether there was at the time any government at all. Fisher Ames of Massachusetts, who had arrived on time, was disgusted.

Madison set out from home soon after his election and went to visit Washington at Mount Vernon. But the snow fell, and the river rose at Fredericksburg, and he had such difficulty in getting to Alexandria that he stopped off for several days, and gave up all hope of reaching New York for the opening. By March 5 he was at Baltimore, and had "fallen in with the Bearer of the Electoral Votes of Georgia," which functionary regaled him with the political gossip of the far South. On the 7th he got to Philadelphia, and learned that Congress had no quorum, nor any immediate expectation of one. By the 19th he was in New York, and was able to report that a quorum would soon be present, and that "the progress of France towards a Constitutional establishment is unchecked, and that a coalition between the King and the Commons ag<sup>st</sup> the Nobility & Clergy, will direct the innovations".



ALEXANDER HAMILTON





Finally, on April 1, the House of Representatives gathered a sufficient number of members together, and met for the purpose of organizing and adopting rules. F. A. Muhlenberg of Pennsylvania was elected speaker, and John Beckley, a Virginian, clerk. On April 6, just over a month late, the Senate was able to transact the first business, which was the counting of the electoral votes. Placing Langdon of New Hampshire temporarily in the chair; the legislators found that Washington had been unanimously elected President and John Adams Vice-President, although he had only 34 votes out of a total of 69. After a little haggling, the venerable Charles Thomson was sent off to Mount Vernon to convey official notification to Washington, and another gentleman betook himself to Braintree to fetch Adams.

The month's delay had been rather a pity, for although everyone knew that the 4th of March was a poor season for travel, the early date had been selected in order that Congress might get to work and collect duties from the spring importations. Accordingly, as soon as the members of the House had taken the oath, Madison arose and introduced a revenue bill which followed closely the lines of the still-born measure of 1783. It provided for specific duties on a few articles, and for ad valorem duties on all others. But he added three paragraphs providing for discriminating duties upon ships, the lowest upon those of the United States, the next upon those of powers with which the United States had treaties, and the highest upon the ships of powers with which the United States had no treaties. This was aimed principally at Great Britain.

No sooner had the bill been introduced than trouble began. Mr. Fitzsimmons of Pennsylvania arose and proposed that a few manufactured articles be added for specific duties, and his colleague explained that the object was to encourage home manufactures. Madison had no fundamental objection to this, although he had doubts: "I own myself a friend to a very free system of commerce, and hold it as a truth, that commercial shackles are generally unjust, oppressive, and impolitic; it is also a truth, that if industry and labor are left to take their own course, they

will generally be directed to those objects which are the most productive." Thus spoke a disciple of Adam Smith. Nevertheless, Madison admitted, there were exceptions to his rule. Industries which had flourished under the protection of state laws could not now be deserted by the national government. "Commercial shackles" were necessary to combat the regulations of other countries, they might be necessary in time of war, and so on. It is to be noted that although Madison at this time seems to have had little theoretical use for the tariff, he certainly did not consider it unconstitutional.

But the main point was this: that revenue was urgently needed, that ships were coming in, and that Congress was talking instead of collecting money. Madison explained that his bill was only a temporary one, that a permanent fiscal system could be set up later. But such words had no weight, for the first tariff was in the air, and the time for log-rolling had come. The House fell into a morass of petitions, suggestions, and compromises, while the imports continued to come into the harbors, and delighted merchants received their shipments duty-free. Meanwhile the Executive arrived.

The little city of New York had done its best to welcome the new government. The old City Hall had been made over into quite an imposing Capitol building, and of the thirty-five thousand inhabitants of the city, a fair proportion fluttered with some excitement. During the Revolution, New York had been in the hands of the British, and its citizens had found it convenient, if they remained in town, to suppress whatever American feelings they may have had, and enjoy the pleasures of English society. Many New Yorkers were avowed Loyalists, and many others remembered with regret the days of the British occupation, when the town had been full of entertaining men. Now there was the possibility of a Court, even though it were only a Republican Court, and people began to make their preparations. As the Congressmen arrived, accompanied by the first army of job-seekers, the prices of food and lodging in the city rose to extraordinary heights, and the tempo of life increased.

First came Adams from Massachusetts, with a great blare of trumpets accompanying him all the way from Braintree, until he began to feel like a potentate. Then, on April 23, Washington arrived. Crowds of people gathered at the Battery and neighboring wharves; streamers, mottoes, flags, insignia of all kinds waved in the breeze. Militia companies, splendid carriages, the governor of New York and a hundred dignitaries, all waited near the foot of Wall Street, where the carpeted wharf was hung about with crimson. Suddenly cannon were fired, the bells began to ring, and a great barge bearing the President-elect appeared and moved to the foot of the stairs at Murray's wharf. Out got Washington, with the committees who had come over with him from Jersey, and proceeded on foot down Wall Street to Pearl, then along Queen Street, and so to the house prepared for him on Cherry Street. The populace followed, with the militia, dignitaries, Congressmen, ambassadors, and the like, and so, auspiciously, the great man began his reign.

A week later was set for the inauguration, and on that day again the city was decorated in its best. At twelve o'clock Washington proceeded to Federal Hall, at the corner of Wall and Broad Streets, and soon appeared on the balcony. There he was saluted by the populace, and Chancellor Livingston administered the oath of office. Then back to the Senate Chamber, where Washington, extremely nervous, delivered his inaugural address. Thence to St. Paul's Chapel for a religious ceremony, and the historic day had passed. In the evening there were illuminations and a great display of fireworks. The streets were thronged, and the spectators were edified by the sight of a "transparency" displaying Washington as Fortitude, with the two Houses of Congress as Justice and Wisdom, on either side.

Madison had taken up his residence in Maiden Lane, handy to the halls of Congress and the lodgings of other statesmen. It is a pity that his family in Orange were such poor correspondents. Madison constantly complained that they never wrote to him, and he in return seldom wrote to them. One might imagine that his sisters, at least, would have enjoyed some details of the

life of people in New York, but we should never know from his letters that anything but politics existed. He afterwards remembered that he had attended Washington's first levee, when the graceful Colonel Humphries, who rather fancied himself as a Chamberlain, had so shocked good republicans, and he grumbled to Jefferson that the "satellites and sycophants" surrounding the President "had wound up the ceremonials of the government to a pitch of stateliness which nothing but his personal character could have supported".<sup>1</sup>

The inaugural had passed off smoothly, but behind the scenes there had been a curious preliminary difficulty. How should the Senate address the President, and how should the House behave when admitted to the Senate Chamber, and what would become of the Vice-President when Washington appeared before the Senate, and so on? The Senate held its deliberations in secret, and no one heard much from it for several years. Our own information is derived from the Journal of that excellent Republican from Pennsylvania, Maclay, whom Tench Coxe had recommended so highly. Maclay was a sour old man, and greatly amused at the antics of John Adams, and of his associates, who finally decided to call Washington "His Highness the President of the United States and Protector of their Liberties". This elegance was considered entirely too modest by some, but was quietly eliminated in the House by Madison, who pointed out that all nonsense about titles was in exceedingly bad taste in the infant Republic. And so Washington became merely the President of the United States, which in itself was a little curious, for he did no presiding.

These affairs being settled, we return to the House, still wrangling over the impost bill. The interminable arguments centered mainly about the duties on rum and molasses, and the paragraphs providing for discrimination against English ships. When the House passed these, the Senate struck out the latter, and changed the relation between the two former. A conference was necessary, and the House surrendered, the Senate promising to attend to the discrimination in a special navigation act. But

the impost bill did not pass until July 4, which was said to be the intention of the merchants. If this delay was their real intent, Madison did not perceive it, for he was, on the whole, pleased with the way things had gone, and attributed the delay more to inexperience than to iniquity. "We are in a wilderness, without a single footstep to guide us," he informed Jefferson. "Our successors will have an easier task, and by degrees the way will become smooth, short, and certain." But to Tench Coxe, who had supplied him with numerous ideas on economic subjects, he wrote as follows: "The duty on cotton was a concession to S. C. & Georgia, who complained of sacrifices in almost every other article. It has unluckily happened in a variety [of] instances that compromises between local views have been made at the expence of the general interest. This is an evil not to be altogether avoided, and perhaps it is on the whole less incurred than was to have been apprehended in such an assembly as Congress."<sup>2</sup>

Coxe was making a hobby of cotton at this time, as well as wishing "the power of the general government extended to the declaring in that places canals *may* be cut, without giving them the power of providing for the expence". He wrote endlessly on manufactures and industries, favored Madison with a dissertation on the importance of conciliating the western country, which would feed and buy from the east, and hoped, withal, to get a job as Postmaster-General. This extraordinary man hit upon many truths, and probably had as clear a notion of the economic prospects of America as any living person, but he made little impression on the public. Some of his ideas were worthy of Hamilton, but his temperament was that of a fussbudget.<sup>3</sup>

After the impost, the next most necessary thing was to establish the executive departments. Madison, who had seen on the list of Representatives "a very scanty proportion who will share in the drudgery of business," was obliged to bear a leading part in this also. It was agreed by the end of May that there should be three departments, one for finance, one for foreign affairs, and one for war. The last, thought Madison, would be continued

in the hands of General Knox, while as to the persons who would occupy the other two departments there was some doubt. Madison thought that Hamilton would be the best man for the Treasury, but he was not as well known in the country as Jay. The main interest of the discussion arose with the question concerning removal of officers. Having been appointed by the President, and confirmed by the Senate, how should they be dismissed from office, if it should be necessary? Some contended that the Senate would also have to confirm a removal, others thought that impeachment was the only permissible method, while some believed that the President alone should be able to act. Madison favored the last mode. This was the first question of constitutional interpretation which came up under the government, if the business of titles be excepted, and the discussion was of considerable interest.

"I look upon every Constitutional question, whatever its nature may be, as of great importance," declared Madison. In this case, he conceived the answer to the question to be implied in the constitutional declaration that the Legislative, Executive, and Judicial departments should be separate. The Legislature had the power to create offices, but the President was, and ought to be, responsible for the performance of the Executive duties. To this end it was essential that he should have the power of appointing, overseeing, and removing those who executed the laws. But others declared that since the Constitution made no specific pronouncement on the subject, the power of removal should be accounted a part of the power of appointment, and that therefore the Senate should bear a part in both. Eventually the question arose as to whether the legislature had any right to decide what the Constitution really said. Some contended that this power lay in the Judiciary department. Madison's remarks on this point are interesting. "I acknowledge, in the ordinary course of Government, that the exposition of the laws and Constitution devolves upon the Judiciary. But I beg to know, upon what principle it can be contended, that any one department draws from the Constitution greater powers than another, in

marking out the limits of the powers of the several departments? The Constitution is the charter of the people to the Government; it specifies certain great powers as absolutely granted, and marks out the departments to exercise them. If the Constitutional boundary of either be brought into question, I do not see that any one of these independent departments has more right than another to declare their sentiments on that point." Madison wished to state in the bill that the President had the right of removal, rather than to leave the question for a later decision by the courts, at a time when men might be heated in controversy. His remarks do not get us much further with a doctrine of Judicial Review, for although he assumed that the legislature could pronounce upon the Constitution in such a case as the present, he did not suggest what might happen in case the Judiciary should overrule such a pronouncement.

As we know, the President was left with the power of removal. In the course of the debate, Madison made a famous remark to the effect that, in his opinion, if the President should remove meritorious officials, it would be a just cause for impeachment. He knew nothing of the uses of the spoils system.

The National Judiciary was set up by a bill which originated in the Senate, and was principally drawn by Oliver Ellsworth. It provided for the division of the country into districts, and the appointment of judges in each district, with a complement of marshals, clerks, and district attorneys. The members of the Supreme Court were to go on circuit and preside over courts composed of the local judges. Concerning the jurisdiction of the Federal courts, this and another act laid down the essentials. Madison did not greatly approve of the bill, and sent it to Randolph and Pendleton for their opinion. The latter also disapproved, but the battles over jurisdiction were to come later, and there was little opposition in Congress. The office of Attorney-General was now created, and given to Randolph, who found it hard to live on his meagre stipend. It so happened that Washington often consulted Randolph on matters of policy as well as of law, and the Attorney-General came to assume a position of

greater political importance than had at first been contemplated.

On June 8, Madison introduced into the House several amendments to the Constitution, and made a long speech justifying them. No less than seventy-eight distinct suggestions had come from the States; these were eventually boiled down into twelve amendments, of which the first ten were duly added to the Constitution. Madison did his part honestly and enthusiastically, and announced in Congress that the "necessary and proper" clause made a bill of rights desirable. Nevertheless, there was opposition from such men as Fisher Ames, and their words left none too pleasant a taste in the mouths of the former anti-Federalists. The two Virginian Senators addressed a letter to the Legislature of their state, setting forth their fears of a "consolidated" government, and of the death of Civil Liberty.

Still, the first session of Congress, which ended late in September, had gone off rather well. There had been no violent antagonisms. The machinery of government had been set up without any attempt to prevent it. And there was ample interest throughout the country. Alexander White wrote to Madison after he had left Congress and journeyed South: "At the Inns on the Road I was surprised to find the knowledge, which the Land Lords, and Country People who were at some of them, had acquired of the Debates and Proceedings of Congress . . ." The people, he said, were pleased with the House of Representatives, and glad to find that its small differences of opinion reflected those in the country.<sup>4</sup> Likewise, the high abilities and characters of the leaders in the government, and the social success of the "Court" were maintaining interest and respect among the upper classes.

But the seeds of discord had already been sown, although perhaps no one realized it. In August, Congress had received a memorial from the public creditors, and had referred it to a committee of which Madison was chairman. This committee reported "that it highly concerns the honor and interest of the United States, to make some early and effectual provision in favor of the creditors of the Union . . ." In September the



House passed a resolution directing the Secretary of the Treasury to prepare a plan for the support of public credit, and to report it at the next meeting of the House. Meanwhile, the nomination of Alexander Hamilton as Secretary of the Treasury had been confirmed by the Senate, and the public credit fell into the capable hands of that inspired young man who had declared in the Constitutional Convention that "Our prevailing passions are ambition and interest; and it will ever be the duty of a wise government to avail itself of those passions".

No sooner had Madison returned to Orange, in October of 1789, than a letter from Hamilton followed him. "It is certainly important," wrote the Secretary, "that a plan as complete and as unexceptionable as possible should be matured by the next meeting of Congress; and for this purpose it could not but be useful that there should be a comparison and concentration of ideas of those whose duty leads them to a contemplation of the subject." Will Madison write what he thinks about the best way of increasing revenue, and about the public debt generally? "The Question is very much What further taxes may be *least* unpopular." <sup>5</sup>

To this Madison made reply on November 19, 1789, in a letter of which he kept no copy, and which must be read in the files of Hamilton's correspondence.<sup>6</sup> In view of what was to follow it is worth quoting at length. First, he made suggestions for additional revenue: "1. an excise on home distilleries. If the tax can be regulated by the size of the Still it will shun every objection that renders excises unpopular or vexatious. Such an experiment was made in Scotland; and as a *Scotch* tax I have not understood that the mode was disapproved . . . 2. an augmentation of the duty on spirituous liquors imported. This will not only be compatible with the former, but in a manner required by it. 3. a land tax. This seems to be recommended by its simplicity, its certainty, its equity, and the cheapness of collecting it. It may be well also for the General Gov't to espouse this object before a preoccupation by the states becomes an impediment. It is an essential branch of national revenue; and when

once in the hands of the National Gov<sup>t</sup> the States will of course turn their attention to those miscellaneous objects which can be more easily managed by them than by Congress . . . 4. a stamp tax on proceedings in the federal courts . . . I do not add a General Stamp tax . . ." Nothing could be more purely federal than these propositions. He then proceeded to the matter of the public debt: "The modification of the public debt is a subject on which I ought perhaps to be silent, having not enough revolved it to form any precise ideas. I take it to be the general expectation that the foreign part of the debt is to be put on the most satisfactory footing, and it will no doubt equally gratify the public wish, if it can by that means be turned into a debt bearing a reduced interest. The domestic part is well known to be viewed in different lights by different classes of people. It might be a soothing circumstance to those least favorably disposed, if by some operation the debt could be lessened by purchases made on public account; and particularly if any impression could be made on it by means of the Western lands. This last is a fund which, tho' overrated by many is I think capable of aiding the redemption of the capital of the debt . . .

"I consider it as very desirable that the provision to be made should be such as will put the debt in a manifest course of extinguishment. There are respectable opinions I know in favor of prolonging if not perpetuating it. But without entering into the general reasonings on that subject, there are two considerations which give a peculiarity to the case of the U. States—one, that such a policy is disrelished to a degree that will render heavier burdens for discharging the debt more acceptable than lighter ones not having that for their object—the other, that the debt however modified must, as soon as the interest is provided for, or the permanent views of the gov<sup>t</sup> ascertained, slide into the hands of foreigners. As they have more money than the Americans, and less productive ways of laying it out, they can, and will pretty generally buy out the Americans." There are only two propositions which Madison makes here; first that the debt must be honored, not repudiated, and second, that it must

be paid as quickly as possible. Beyond these points, he has not "revolved" the question, and although he had received a letter on the subject from Tench Coxe, and a short piece of instruction from William Bingham, who was to be the richest merchant in Philadelphia, we have no reason to think that Madison did not speak the truth when he disclaimed any detailed policy of his own.

On January 14, 1790, the galleries of the House were crowded with those who had come to hear the Secretary's Report on the public credit. Their curiosity was amply gratified. In his long, detailed, and masterly document, Hamilton first computed that the United States owed about fifty-four million dollars of foreign and domestic debt. The individual States were indebted to the extent of about twenty-five million dollars. Hamilton proposed that the debt should be honored at its face value, that it should be funded, and interest paid, and that the debts of the states, as they stood, should be assumed by the national government under similar arrangements. The funding provisions were complicated, and would certainly result in a lower rate of interest, but the payment of the principal was provided for only by setting aside the net proceeds of the post office, to the extent of not more than a million dollars a year, to make a sinking fund. Thus not more than two per cent of the principal could be paid in a year, while those holding the certificates of indebtedness would receive interest from the Treasury for an assured period of time. Madison's opinion that the debt should be put "in a manifest course of extinguishment" was almost directly contradicted.

The implications of this report, especially if taken in connection with the later policies of its author, were enormous. Originally, certificates of indebtedness had been forced upon soldiers, farmers, and others who had given supplies or services to the United States. But the inadequacy of the government had caused this paper to shrink to a fraction of its face value, and much had been bought up by speculators, willing to risk their ready money in hopes of some such policy as the present one.

We shall notice later how tremendously such speculation was encouraged by the Report. The public debt came rapidly and surely into the hands of a comparatively small number of persons. These, many of whom had paid no more than fifteen or twenty cents on the dollar, were now to see their paper worth its face value, and furthermore were to be rewarded by assured interest, paid out of taxes. This beneficence was showered upon them by the national government. If they held certificates of state indebtedness, likewise, they would now find in the national government the source of their fortunes. And the money to pay all this was to come largely from the small farmers, the ordinary citizens, even the soldiers who had been cheated by the speculators.

In fact, Hamilton had created his aristocracy, his group of powerful persons who would find it to their *interest* to support and preserve the national government. He had found a way to turn the "passions" of important men towards the national government, even to turn them away from the State governments. This is why Hamilton's policies were no mere financial devices, but the creations of an inspired statesmanship.

The thing which marks Hamilton as the supreme genius of the period was not his treatment of the national debt, particularly, for such policies had been familiar in Europe, and especially in England, for a century. It is rather the unerring fashion in which he grasped the meaning of past history, and the portents of the future. The past had been with kings and warriors and bishops and landed gentry, but the future, whether we like it or not, was with merchants and bankers and captains of industry. Hamilton did not need to prolong the national debt, he did not need to create, as he said, "fluid capital". But if he had not done so, someone else would; it was so ordered.

And so the Report on Public Credit inaugurated a new era in American history. There was only one way to fight such a development, if one wished to fight it, and that was to oppose Hamilton's "interest" by another and a more powerful one. We know now that there was no such possibility, but no one knew it

then. America was singularly situated for such a battle. In Europe an opposing interest would have arisen automatically, or it might be more correct to say that in Europe the Hamiltonian group would have been itself an opposition to the crown, the nobility, the clergy, or to all three. But in America there was no crown, nobility, or clergy to provide a resistance, and the landed gentry, ironically enough, were gradually being destroyed by the legal reforms of such men as Jefferson and Madison. The only possibility lay in the mass of the people themselves, and it was in the recognition and development of this element as an opposition to Hamilton that Jefferson played his part, and so proved himself the second great genius of the period.

Everything worked together to throw Madison into the opposition, even though he could have had high political favor from the Federalists. Most important, as we have seen, was his assured tendency to protest as soon as he perceived the real nature of Hamilton's policy. He did this not particularly because Hamilton's policy was "capitalistic" but because it involved the dominance of an "interest", and Madison's political emotions rebelled at this. A second factor aligning him with Jefferson was personal friendship, but this should not be overestimated, for although the two were close friends, Madison in 1790 was on terms of intimate friendship with Hamilton also, not to speak of Washington. Finally, sectional feelings drove Madison into the Republican camp, for he was essentially a Virginian. Although in later life he often differed from the most popular Virginians, he nevertheless was at home with them. He never became closely associated with a New Englander, he moved naturally among the people and the scenes of his native state. Although many distinguished Virginians were Federalists, the prevailing temper of the South was Republican, and Madison went that way.

All this was still in the future on that momentous January 14. Madison was not even in the House to hear Hamilton's report. He had been delayed in starting from Orange by the illness of his mother, and then had himself been held up at Georgetown

by a serious attack of dysentery. When he did arrive in New York on the 20th, he did not find anything especially alarming in the situation. The report of Hamilton had been printed, together with a long one by Knox on the militia. Madison wrote to Jefferson that "Nothing has passed either in Congress or in conversation from which a conjecture can be formed of the fate of the Report". Nevertheless, he related that the price of stock had risen even before the publication of the report, and that emissaries were scouring the countryside to pick up more stock at a reduced price.

Meanwhile speculation began to be seen in its full infamy. Not many days after the reading of the Report, couriers were flying in all directions, swift-sailing vessels were dispatched to the south, and the race began. The members of Congress, and the wealthy men about Congress, sent off their agents in hot haste, to buy up securities before news should penetrate to the hinterland that Congress might redeem them at par. A few had known what the report would say even before it had been read; these enjoyed a head start. Robert Morris, Fitzsimmons, Fisher Ames, and many other patriotic Congressmen set about the business, while their friends who had ready money rapidly grew rich. Between two and five shillings in the pound was the price at which the luckiest of the speculators were able to pick up the public debt, and they knew, as the sellers did not, that it was almost beyond a doubt that the paper was to be worth twenty shillings in the pound, and perhaps more in the open market.

Thus the new era dawned. Some Congressmen raged against the whole business; in the Senate Jackson of Georgia spoke with brutal frankness, but Maclay cynically gave up hope of combating the evil. Hamilton rapidly assumed the proportions of a god in the minds of his followers, whom he was rewarding so richly. As for himself, he was above such things, and no one has been able to prove that he made for himself a single cent, though he did undertake some operations for his brother-in-law. The Schuyler family was doing nicely.

Madison gradually became more and more disgusted with the

whole affair. This rage for speculation offended every part of his nature: this was what his constitution had come to, that it should make money for a few by mulcting the many. And so, after Congress had squabbled for some days, he arose, on February 11, to try and compromise the trouble. He began by insisting, contrary to some of the more rebellious Congressmen, on the moral obligation of the United States to pay its debt in full, at face value. There was to be no repudiation, no more experiments like that of March 18, 1780. The only question for debate was, to whom was the payment really due?

Madison divided the creditors of the Union into four classes: original creditors, who had never alienated their securities; original creditors who had alienated; present holders of alienated securities; intermediate holders, through whose hands securities had passed. With respect to the first class there was no discussion. As for the fourth group, nothing could be done for them within the range of possibility. But for the second group he felt some provision should be made, and he proposed that the third group of holders should be paid the highest market value of the securities, while the second should receive the balance. Since the books of the Treasury contained a list of the original holders of securities, this could be accomplished, if not without difficulty, at least without injustice.

This plan produced a storm of discussion. It was plausible, for it did not, like some of the other schemes, provide for a partial repudiation, which was offensive to many, nor did it attack the principle of funding the debt. Its idea of discriminating between the original holders and those who had speculated was one to make a considerable general appeal. The Hamiltonians were cast down, but on the 16th there took place the counter-attack. The unctuous Sedgwick, the brilliant Fisher Ames, Lawrence, Smith, Wadsworth, and others did their best to make Madison appear ridiculous. Why should not the speculator reap the reward of his faith, they asked. It was the business of the government to uphold the right, even though it be unpopular. Madison's plan was impracticable, chimerical, dreamy, divorced from

the realities of business. The sanctity of private rights was overthrown by it, the stability of public credit endangered.

On the 18th Madison replied in a long and extremely able speech, tinged with considerable asperity. He answered every argument as best he might; he quoted precedents from English history for such a discrimination. He replied to a charge of inconsistency with his views of 1783 by proving that at that date there had been very little transfer of the public debt. And, in the language of the reporter, he said "he must renounce every sentiment which he had hitherto cherished, before his complaisance could admit that America ought to erect the monuments of her gratitude, not to those who saved her liberties, but to those who had enriched themselves in her funds". Maclay came into the House towards noon, and found Madison "somewhat jaded" after his long efforts of the morning.

It was all to no avail. On February 23 his plan was voted down, and the Secretary's went through. It was found later that of the sixty-four members of the House, twenty-nine were security holders.

So the first battle was lost. In view of Madison's later career the position which he took at this time is more remarkable for its moderation than for its clear-cut opposition to Hamilton. He did not oppose funding the debt; he did not even openly oppose the long duration of the payment. Maclay and the stout Republicans were as disgusted with Madison as were the Hamiltonians. On Sunday, the 21st of February, Maclay drew up a plan of his own for the payment of the debt from the proceeds of a sale of the western lands, and on the 22nd called upon Madison with his proposition, but was very coldly received. The Pennsylvania senator describes his visit with much ill humor: "I enlarged on the business before the House as much as I thought my time would allow. Told him plainly there was no chance of his succeeding. It hurt his *Littleness*. I do not think he believed me. I read the resolutions. I do not think he attended to one word of them, so much did he seem absorbed in his own ideas. I put them into his hand. He offered them back without reading



them. I did not readily hold out my hand to take them. He tendered them a second time. I took them, and then, by degrees, wound up my discourse so as to draw to the point of wishing him a good morning." <sup>7</sup> Maclay thought next day that the obstinacy of Madison had ruined the opposition, for he believed that a fundamental attack on the principle of a funded debt would have been successful. He was wrong, without much doubt.

Yet the seeds of the Republican party had been sown. In the papers there appeared letters and broadsides from "Old Soldiers" and others, thanking God that there was a Madison to give attention to their interests. One such publication suggested that it would be well to make each member of Congress "lay his hand on his heart and declare that he is no speculator". Another recalled Washington's promise to see justice done the common soldier. The lines were being drawn between two parties, but Madison himself was far from such thoughts.

His correspondents were more acrimonious than he. Dr. Benjamin Rush from Philadelphia wrote him a long letter late in February, congratulating him upon his proposition in Congress. "The decision upon that great question will leave a stain upon our own country which no time nor declamation can ever wipe away . . ." He blamed it upon the clamours of New York speculators, and picturesquely suggested that such a thing would never have taken place on the banks of the Delaware or the Potomac. Warming to his theme, he continued: "I feel disposed to wish that my name was blotted out from having contributed a single mite towards the american revolution. We have effected a deliverance from the national injustice of Great Britain, to be subjugated by a mighty act of national injustice by the United States. . . . It will lay the foundation of an Aristocracy in our country. It will change the property of nine-tenths of the freeholders of the States, and it will be a lasting monument to the efficacy of idleness, speculation and fraud above industry Oeconomy and integrity in obtaining wealth . . . it clearly establishes this proposition, that revolutions like party spirit, are the rage of *many* for the benefit of a *few*." The good doctor con-

tinued, comparing the funding bill to the Spanish extirpation of the Indians, the ravages of British troops, and the African slave trade.\*

John Nicholson of Philadelphia wrote to Madison, insisting that his scheme was practicable, and saying that a similar plan had been carried out by the Pennsylvania legislature. Light-Horse Harry Lee wrote early in March, opposing the principle of funding altogether, and showing that at least one Virginian had understood Hamilton: "It is no doubt political to establish this system where the gov<sup>t</sup> is in the hands of one or a few, because it draws to the support of the gov<sup>t</sup> a numerous class of the people from the strongest motive of human action, viz. self-interest." Lee thought funding systems applicable only to commercial states, and he hoped that the United States would never become commercial. "God forbid the event, I ardently pray that the U. States may to the latest ages continue to possess the character and enjoy the blessings of tillers of the earth." But Randolph and Carrington wrote saying that the town of Richmond favored the funding bill and did not favor discrimination. Carrington himself departed from Madison on this point, and soon turned into an uncompromising Federalist.<sup>8</sup>

In fact, the interest and the passions of the country were beginning to be aroused. The contest soon passed into its second stage, when on February 23 there was taken up the question of the assumption of the state debts. On this subject the lobbies of Congress were filled with arguments. Capitalists, Hamiltonians, and strenuous advocates of a stronger government filled the air with their ideas. There were two principal reasons for the assumption of state debts. One was that all the debts contracted by the states in defence of their liberty were in reality debts of the United States, and hence ought to be paid by the national

\* In this letter he also declaimed against Knox's report. How much better it would be, he said, to prevent war: ". . . if possible let the military character be stripped of its glare, and even rendered unpopular." Half the money demanded by Knox, if spent on education, would prevent war. He recommended that the United States make a proposition to the European powers to appoint umpires in disputes, and set up a machinery of peace.

government, which would at the same time find it easier to raise money than would the individual states. The other reason was that such a policy would lead to a greater dependence upon the Federal government, and tend to prevent decentralization. Behind this was of course the underlying theory of Hamilton, now openly avowed by Oliver Wolcott, that the creation of a wealthy class in support of the government was a desirable thing.

On the other hand, those who opposed the measure had now available better evidence of the speculative enthusiasm which it would arouse. It was becoming widely recognized that there was a deliberate intention on the part of the administration to erect a "moneyed interest" which should be the most powerful support of the government. This satisfied the towns and cities well enough, but the country folk became more and more disgruntled. Furthermore, the assumption of state debts as they stood would work an injustice upon some of the states which had labored and paid off much of their indebtedness. This last point was a solid argument which could not be gainsaid.

As it happened, Virginia had already made most progress in the payment of her debts, and objected strenuously to undergoing taxation for the benefit of less diligent states. Massachusetts, Connecticut and South Carolina were in a position to gain greatly by the proposal, for they were greatly in debt. Their representatives became lyrical in praise of union and strong government, as the possibility presented itself of repealing the state tax laws which had been made necessary by the debts.

Madison opposed the proposition entirely. His main argument was sectional in character, and in one of his speeches he was obliged to enter into a comparative statement of the claims of Massachusetts and Virginia. But his opposition was cautious, and he did a relatively small amount of speaking in the House. From Virginia, meanwhile, came loud cries of protest. Carrington said that although still opposed to Madison's scheme of discrimination, he thought assumption an iniquitous proposition, because of its injustice to Virginia. Patrick Henry rejoiced in the fulfillment of his prophecies. Henry Lee wrote that the con-

tinued existence of the government was made doubtful by the "mad policy" of Congress, and the "growing ill-will of the people here." He feared that the only relief was in disunion, and preferred war to the rule of the "insolent northern majority". He asked if Madison loved the constitution so much as to adhere to it though it "produce ruin to your native country". It was rumored about in Virginia that John Adams had declared that "the southern people were formed by nature to subserve the convenience and interests of the north".<sup>9</sup>

Madison wrote to Lee, endeavoring to temper his frenzies. "I cannot feel all the despondency which you seem to give way to," he wrote. "I do not mean that I entertain much hope of the Potomac; that seems pretty much out of sight; but that other measures in view, however improper, will be less fatal than you imagine." He ridiculed the notion that Adams had ever said what was attributed to him, and he tried to pacify Lee. But a steady stream of letters came in to him, denouncing the project of assumption. Dr. Rush submitted another diatribe: "I question whether more dishonourable influence has ever been used by a British minister (bribery excepted) to carry a measure than has been Used to carry the report of the Secretary. This influence is not confined to nightly visits, promises, compromises, sacrifices, and threats, in New York. It has extended one or two of its polluted streams to this city, the particulars of which you shall hear when I have the pleasure of seeing you on your way to Virginia."<sup>10</sup>

The question of assumption dragged on from February to July. In April it seemed that the proposal might be defeated, and great was the despair of the speculators, and the representatives of the indebted states. Sedgwick fairly exploded in the House, and many of the members, it is recorded, had to be called to order. A more ominous note was struck. Threats of disunion were freely bandied about by the northerners, while Madison and his friends were accused of anti-federalism, of disrupting the Union. This is the first appearance of that war-cry, which eventually became the standard taunt of the Hamiltonians. The

reasoning was an excellent piece of political logic: Assumption was for the purpose of binding the states together, therefore those who opposed it were against the Union. Likewise, if assumption were not passed, the Union would possibly be dissolved by those who favored it; therefore, those who opposed it were anti-federal. Madison answered some of this nonsense by a significant speech: "There is no man more anxious for the success of the government than I am; and no one who will join more heartily in curing its defects. But I wish these defects to be remedied by grants of additional constitutional powers, if they should be found necessary. This is the only proper, effectual, and permanent remedy." In this remark lies implicit the long battle between the advocates of "strict" and those of "loose" construction of the Constitution.

As the months dragged along, other events claimed attention, though none aroused the interest of the financial bills. Mr. Jefferson arrived in New York towards the end of March, having been persuaded by Washington and Madison to undertake the duties of Secretary of State. He endeavored to have Madison come and room in the same house with him, but Madison refused to leave Mrs. Ellsworth's. Tench Coxe came to town, his ambitions gratified by a position in the Treasury, and Madison no longer received his written advice concerning new spinning-wheels, cotton planting and manufactures. Coxe became an ardent Hamiltonian, and Dr. Rush wrote to Madison in alarm, asking him not to tell Coxe how inveterate his opposition to Hamilton had become, for the two had been friends. In June there came to town Captain Bligh, lately famous by reason of the mutiny on his ship the *Bounty*. According to Madison's account he had carried away from his ship in the longboat some upland rice, got from Timor, and of this he gave a few grains to Madison, who sent them on to his father, with instructions to "give the grains their first vegetation in a flower pot of rich earth, and then shift the contents of the pot into the ground so as not to disturb the roots."

But meanwhile the interminable wrangling over the seat of

government continued. We have already sketched the situation briefly, and there is no need to repeat the sordid tale. No agreement could be reached, but the adherents of the Potomac kept their cause always to the fore; armed themselves with figures showing the distances from various parts of the Union, descanted upon the salubrity of the climate of Georgetown, held forth upon the great possibilities for the development of that district, and the gracious reception which Virginia would accord the national government.

Since Congress could neither agree about the assumption of state debts nor about the location of the capital, the obvious solution was some kind of political horse-swapping. Upon a memorable day Hamilton found Jefferson upon the street outside Washington's house, and walked arm in arm with him, persuasively speaking of the needs of the country, of the danger of disunion, of the necessity for assumption. The South wanted the capital, the North wanted assumption. Could not a bargain be struck? Jefferson gave ear, and invited Hamilton and Madison to a private dinner with him, to discuss the matter further. At the dinner he engaged to get two or three southern votes for assumption in exchange for a few Pennsylvania votes for the Potomac. Madison, although he agreed to let the question of assumption be brought up again during the session, refused either to vote for it or to withdraw his opposition, but he promised not to be "strenuous".<sup>11</sup> And so, early in July, Congress voted to go to Philadelphia for its next session and remain there until 1800, when a transfer would be made to the permanent seat of government on the Potomac. Next day, the complete report of the Secretary of the Treasury was passed, including the assumption of state debts. In this last, however, certain changes had been made which materially relieved the injustice to Virginia, for the amounts to be assumed were named in the bill. As Madison put it "the truth is, that in a pecuniary light, the assumption is no longer of much consequence to Virginia, the sum allotted to her being about her proportion of the whole, & rather exceeding her present debt".

Jefferson later regretted this act of his more than any other in his public life. He endeavored to excuse himself by pleading unfamiliarity with the financial system, but his correspondence shows that such was not really the case. Madison does not mention the bargain at all, but refers to the actual voting as follows: "Many who voted for [assumption] did so on a supposition that it was a lesser evil than to risk the effect of a rejection on the states which insisted on the measure. I could not bring myself to concur with them, but am sensible that there was serious danger of a very unfavorable issue to the Session from a contrary decision, and consider it as now incumbent on us all to make the best of what is done." Congress adjourned on the 12th of August, postponing the settlement of funds for the state debts until the next session.

It is very difficult to see just what Madison's position was at this time. He had certainly earned for himself the cordial dislike of the followers of Hamilton, and had lost whatever popularity he may once have enjoyed in such a place as Boston. There was a fairly well organized Congressional party back of Hamilton, but it would not be safe to say that there was any organization on the other side. It has already been seen that Madison did not consort with extreme Republicans such as Maclay. He opposed assumption, but not the funding system. He favored discrimination, but it was rather from a vague sense of justice than from any settled policy. He was certainly not the leader of a recognized and coherent opposition to the party in power. For in fact the party system was not yet born.

It is probable that Madison himself was much puzzled by the course of events and by his relation to them. He, like all the other Fathers, had despised parties, and apparently had not foreseen the possibility of any such policies as those of Hamilton, which built up a distinct party. The duties and privileges of an Opposition were not yet clear, even in England, and it was to be several months before a definite opposition developed in America. The second session of the first Congress was, then, a period of transition for Madison. He thoroughly disapproved of

the speculation which had arisen, and of the tendency which Hamilton manifested to give new powers to the general government by a wide interpretation of the Constitution. Yet he still stood firmly for the Union, and it was not quite possible as yet for a party to be formed in opposition without seeming itself to undermine the Union. We are forced to believe that the questions of discrimination and of assumption formed only the introduction to the history of parties.

Yet there had been growing a considerable body of opinion which was antagonistic to the Hamiltonian policies. The letters which came in to Madison showed more hostile feelings than their recipient manifested. A striking indication of the change in the affairs of Virginia is provided by a letter of Henry Lee, written to Madison as early as March, 1790. "I wish," he says, "Mr. Henry was with you in the lower house." It was scarcely a year since Madison and Patrick Henry had been the most widely removed opponents in Virginian politics. Truly, politics had changed, and they were to change still further, for Patrick Henry, and Henry Lee also, were to become the staunchest of Federalists, while Madison continued his sober course towards the opposition. This opposition lay ready to hand, waiting only for an organizer. In Jefferson that organizer was found.



## CHAPTER VIII

### *THE OPPOSITION*

1790-1793

**G**RADUALLY, Madison found himself becoming popular.

As far back as September, 1789, Carrington had written that the anti-federalists in Virginia were beginning to change their minds about him. By honestly putting forward the amendments he had helped his cause materially, and as the plans of Hamilton unfolded, the rural population of Virginia became more and more dissatisfied, and looked to Madison as the chief representative of an opposition to such schemes of the cities. There was disagreement concerning his plan of discrimination, but with respect to the assumption of state debts, the opinion of Virginia was unanimous. When the assembly met in the autumn of 1790 this feeling was evident, and a committee was appointed to draft resolutions. On this committee, with Patrick Henry, were several of the 1788 Federalists. They drew up the first protest of a state legislature against acts passed by Congress.

In this document the truth was boldly proclaimed. Condemning the restrictions placed upon the redemption of the debt, it pronounced the funding scheme calculated to "erect and concentrate a large moneyed interest" which would either place agriculture at the feet of commerce, or else result in a change in the form of federal government. It declared that the assumption of state debts transcended the legitimate powers of Congress, and asked for a revival of the whole financial program. Such conduct by a state legislature angered Hamilton, who wrote to Jay, enclosing a copy of the resolutions: "This is the first symptom of a spirit which must either be killed, or will kill the Constitution. I send the resolutions to you, that it may be considered what ought to be done. Ought not the collective weight of the different parts of the government to be employed in exploding the principles they contain?" This was the same writer who

had declared in *The Federalist* that the state legislatures would be constantly ready to sound an alarm if the national government exceeded the limits of its power.

Not all Virginian Federalists approved the tenor of these resolutions. Carrington, who was now wavering toward Hamilton, wrote that much might have been accomplished with calmness, "but the intemperance marked in every sentence of the proceeding, takes from it, even amongst the people of the country, much of its weight, and perhaps places Congress on the least unpopular side of the question".<sup>1</sup> Yet Madison, for almost the first time since the Revolution, enjoyed wide popular support. That same autumn he was reelected to the House, although his poor health prevented his returning to Orange until after the elections.

The first Congress met again for its last session on December 6, 1790. This time the meeting was in Philadelphia, in a hall prepared for the purpose. There were but two matters to be considered, first, the establishment of a revenue to take care of the interest on the assumed state debts, and second, Hamilton's proposition for a National Bank.

The proposed revenue turned out to be an excise tax on distilleries, together with the necessary increase of import duties on spirits. Like so many other measures of the time, this tax bore hardest on the South and West. There were many small distilleries in the back country, where the farmers converted their grains into liquors, after which they carried this more portable commodity to the markets for sale. Protests against the new tax increased until in a few years the Whiskey Rebellion had to be quelled. It will be remembered that Madison had suggested just such a tax in his letter to Hamilton of November, 1789. He did not now join the main body of Republicans who opposed the excise, for although he did not like it, he realized that money must come from somewhere, and since direct taxes were not practicable, this seemed the best alternative. Again we see that there is no close organization of the Republican forces. Men still voted as they pleased, and there was no feeling that the duty of the opposition was to oppose.

But now arose the vital problem of the Bank, and before it had been laid to rest, the party lines had been drawn, and Madison had become an open and avowed opponent of the Hamiltonian administration. The proposition was that Congress should charter a National Bank, of which the greater part of the capital was to be subscribed not in specie but in government securities. The government was to contribute one-fifth of the amount, while the management of the institution was to be vested in directors elected by the stockholders; its notes were to be receivable in all payments to the United States, and no other similar institution was to be established during its existence. This was clearly the last and greatest item in the Hamiltonian economic program. Bank stock was to be added to the other materials for speculation, and the financial group behind the administration was to receive one more present from the government. Moreover, since the Constitution gave no power to Congress to charter such a Bank, its justification had to be found in a very broad interpretation of the fundamental law. Hamilton did not hesitate. His report proved to the satisfaction of the Federalist party that it was necessary and proper to establish a Bank, because that was the best way for Congress to raise the money which the Constitution empowered it to raise and to borrow. Thus appeared the first extensive argument for "broad construction", and Hamilton's papers on the Bank have remained the classic exposition of that doctrine.

The bill quickly passed the Senate, where Maclay concluded that it was no longer worth while to struggle. In the House the debate was short but pointed. Madison made a long speech on February 2, in which he based his opposition chiefly on the ground of constitutionality, and with this speech began the history of "strict construction". He flatly denied that "the power to lay and collect taxes to pay the debts, and provide for the common defence and general welfare" of the country could authorize the chartering of a Bank, and asserted that this general power was limited to acts levying taxes. As for the justification of the Bank from the "necessary and proper" clause, he pointed

out that such use of that clause would permit all manner of improprieties in legislation. "The doctrine of implication is always a tender one," he said, and insisted that a proper interpretation of the Constitution would "condemn the exercise of any power, particularly a great and important power, which is not evidently and necessarily involved in an express power". Nothing in any of the debates in the ratifying conventions would authorize Hamilton's construction of the Constitution, and if the Bank bill passed, the members of the government would be open to the charge of administering the Constitution under a different interpretation from that explained to the conventions which ratified it.

On the 8th he made another speech, endeavoring to answer the oratory of the Hamiltonians, and submitting some practical objections to the Bank in addition to the constitutional ones. But it was of no avail, and the bill passed soon after, by a vote of 39 to 20. From the hands of Congress it passed to those of the President, and Washington was sorely puzzled. He called for arguments in writing from Hamilton and Jefferson, and their opposing views, as expressed in the two replies, have become famous. He also called Madison into personal consultation, and the two had several close conversations. Madison, at Washington's request, prepared a veto message, and thought for a short time that it would be delivered. But Washington finally decided in favor of Hamilton, and the act was duly signed.

Madison's opposition to the bank was of quite a different nature from his opposition to the funding and assumption bills. "The arguments in favor of the measure," he wrote to Pendleton, "rather increased my dislike to it because they were founded on remote implications, which strike at the very essence of the Gov<sup>t</sup> as composed of limited & enumerated powers." The "neutrality" of the sovereign was being destroyed by a faction. Since not only Madison's political theories, but also his economic interest and that of all cultivators of the soil seemed to depend upon maintaining such a neutral sovereign, he began to fight for it. He seized the weapons which lay to hand, those of constitu-

tional interpretation, and made the issue seem no mere question of policy, but an attack on the fundamental law. These weapons were not very powerful, for the Constitution was not as yet an object of superstitious veneration. It is more interesting to note how soon Madison's theories were proved unsound; the multitudinous clashing factions of the large state did not neutralize each other, and he was obliged to utilize the complicated political apparatus of states' rights and enumerated powers in order to preserve the impartiality of the federal government.

How little Madison had to do with moulding the resentment of the country against Hamilton may be illustrated by a letter which he received at this time from Thomas Pleasants of Raleigh, North Carolina. After deploring the necessity of the excise, and the impolitic forcing of the assumption bill, Pleasants continued: "but what may be called the Monied Interest—the speculators in the publick Securities, or that set of Men, who in the language of Lord Chatham 'live in riot and Luxury upon the plunder of the Ignorant, the Innocent, the helpless, upon that part of the Community that stand most in need of and best deserves the Care and protection of the Legislature'—seem to have obtained too great an Influence in the General Government, and to support their Luxury, Idleness, and extravagance, the bulk of the people of the U. States must be loaded and oppressed with Taxes—that will fall very heavy upon the Southern States—as the securities chiefly rest with the people in the great Trading Towns to the North." <sup>2</sup> Madison was no demagogue. He did not invent the idea of a "monied interest". If he had read Bolingbroke on the English financial system (and doubtless he had) he would have found a description not unlike those which he and his colleagues were to apply to the financial system of the United States. The language of Henry Lee, of Benjamin Rush, and of Pleasants was far more intemperate than that of either Madison or Jefferson at this time. For Madison moved slowly, conservatively, but surely.

But worse was yet to come. Madison remained in Philadelphia through most of April, and then went to New York, per-

haps to look after his lands in the Mohawk Valley. Here he found all manner of iniquity. Men were cheating the government by taking out administration on the effects of deceased soldiers, and other claimants leaving no representatives. "By this knavery if not prevented a prodigious sum will be unsaved by the Public, and reward the worst of its Citizens." He found that during the period when Washington was considering whether or not to sign the Bank Bill, "the licentiousness of the tongues of speculators and Tories far exceeded anything that was conceived. The meanest motives were charged on [the President], and the most insolent menaces held over him, if not in the open streets, under circumstances not less marking the character of the party."

Meanwhile Jefferson got into trouble. A copy of Thomas Paine's *Rights of Man* had come into Madison's possession. He lent it to Jefferson and requested that it be passed on to S. H. Smith, a publisher, who would reprint it. Jefferson read it and passed it on, with a covering note expressing his pleasure that the book was to be made available in America, "and that something is at length to be publicly said against the political heresies which have sprung up among us". Without the knowledge of Jefferson, Smith published this letter as an introduction to the reprint. The pamphlet of Paine had been a reply to that of Burke attacking the French Revolution, and when Jefferson's words came out an uproar arose. The partisans of Burke and the partisans of Paine railed at each other; the British minister objected, and John Quincy Adams attacked both Paine and Jefferson in the letters of "Publicola". The social ostracism of Jefferson began in the drawing-rooms of Philadelphia. Madison was disgusted, and especially so with the Adams clan.

In these disagreeable circumstances, the two friends set out upon a journey up the Hudson to Lake George and across into New England. From May 20 to June 16 they were gone, and there has been much ink spent in discussing what they talked about. The general opinion has been that they founded the Republican Party during this trip. Some have contended that

Madison was won over to anti-federalism by the wiles of Jefferson, exerted as they drove about and fished in the waters of New England. There is absolutely no documentary proof of anything that happened during the trip, save that they enjoyed themselves, caught speckled trout, salmon, and bass in Lake George, visited various battlefields, and were kept over a Sunday in Bennington by the laws of Vermont, which prohibited travel on the Lord's Day. In his later life Madison was asked about this excursion and was unable to recollect that any deep plots had been hatched, but admitted that they must have talked politics. It is reasonable to suppose that they arrived at a common understanding of the questions of the day, but it is unlikely that Madison required any seduction to bring him into the party. After all, he had opposed Hamilton while Jefferson was still in Europe.

Upon their return, they found the activities of speculators in full swing. It was during this summer that the fever of gambling rose to such heights that Hamilton himself began to be appalled at what he had done. By July 10 the bank stock, previously traded mainly in Philadelphia, had risen as high in New York. "It seems admitted on all hands now that the plan of the institution gives a moral certainty of gain to the Subscribers with scarce a physical possibility of loss." Thus wrote Madison to Jefferson. "The subscriptions are consequently a mere scramble for so much public plunder." But what most shocked the honorable Virginian was the enthusiastic activities of the Congressmen who had created the Bank. "Of all the shameful circumstances of this business, it is among the greatest to see the members of the Legislature who were most active in pushing this Job openly grasping its emoluments." Hamilton's father-in-law, Schuyler, was to be put at the head of the directors, if the New York stockholders could manage it. "Nothing new is talked of here. In fact stock-jobbing drowns every other subject. The Coffee-House is in an eternal buzz with the Gamblers."

In August even the Administration newspapers were issuing notes of warning, but the boom increased. Madison makes further reports from New York: "It is said that packet boats &

expresses are again sent from this place to the Southern States, to buy up the paper of all sorts which has risen in the market here. These & other abuses make it a problem whether the system of the old paper under a bad Government, or of the new under a good one, be chargeable with the greater substantial injustice. The true difference seems to be that by the former the few were the victims to the many; by the latter the many to the few." Thus Madison's education was progressing rapidly, and for once he almost doubted the wisdom of the Constitution itself.

This was not what he had striven for. As the summer passed, a distinct change was to be noted in Madison's language. Hitherto he had been moderate, cautious, deliberate, given rather to soothing his outraged friends than to inflaming them. But as the speculation grew he became decidedly acrimonious. "Since the unanimous vote that no change sh<sup>d</sup> be made in the funding system, my imagination will not attempt to set bounds to the daring depravity of the times. The stock-jobbers will become the pretorian band of the Government, at once its tool & its tyrant; bribed by its largesses, & overawing it by clamours & combinations." So they would, and did, for that was Hamilton's intention and his philosophy of government. Madison had not looked forward into the nineteenth century with a very discerning eye. He still lived in hopes of a free, agricultural, republican people. He was, after all, a simple country gentleman, and the scenes of high finance disgusted him to the core. For the first time in his life, Madison's words became vitriolic, far more so, it may be remarked, than those of Jefferson at this time. He was thoroughly, deeply, roused.

In September he rejoined Jefferson and the two travelled together to Virginia for a short stay. They returned to Philadelphia in time for the opening of Congress on October 24, and happened upon one of the first labor disputes in the history of the country, when "owing to a variance between the shoemakers and their journeymen on the point of wages," Madison was unable to buy a pair of shoes for his brother. He was much more disturbed, however, by the publication at this time of the list of



Directors of the Bank, on which could be read the names of some of the Congressmen most active in its support. Against such unsavoury practices, the two Virginians drew closer together. Madison was often at Jefferson's house for three o'clock dinner, and the Secretary of State submitted practically all of his most important papers to the younger man for comment.

The session of Congress produced no momentous debates, but accentuated the party lines. There was a wrangle over the apportionment of representation among the states, in which sectional differences between the south and New England were stridently brought forth. When a bill was finally passed, Washington vetoed it, to the great satisfaction of Madison and his friends. A dispute also arose over putting the head of the President upon one side of the new coins which were to be struck, and this monarchical tendency was staved off by the zealous republicans.

Somewhat nicer was the controversy over providing additional supplies for the Indian war. The House considered a resolution asking the Secretary of the Treasury to submit his opinion of the best mode of raising such supplies. Scandalised by this invasion of the legislative rights of the House, Madison and others insisted that the business of the Secretary was to give facts and information upon which the House might base its own opinion. There was no doubt that the influence of the Secretary of the Treasury was out of all proportion to his constitutional position, and although this does not frighten one at present, it was an unseemly development to those who were devotees of the doctrine of a separation of powers. The resolution was nevertheless passed in its original form.

The great event of the session was the submission of Hamilton's report on manufactures. Carrying further his broad interpretation of the Constitution as laid down at the time of the Bank Bill, the Secretary of the Treasury elaborated a scheme for the encouragement of industry, especially through the means of granting bounties. This he justified by the "general welfare" clause of the Constitution, and announced that Congress had the

power to determine what was for the general welfare, and that "whatever concerns the general interests of learning, of agriculture, of manufactures, and of commerce, are within the sphere of the national councils, as far as regards an application of money". Madison, who had already expressed his opposition to this doctrine, now reiterated it. To Pendleton he wrote, "I consider it myself as subverting the fundamental and characteristic principle of the Government; as contrary to the true and fair, as well as the received construction, and as bidding defiance to the sense in which the Constitution is known to have been proposed, advocated, and adopted. If Congress can do whatever in their *discretion* can be *done by money*, and will promote the *General Welfare*, the Government is no longer a limited one, possessing enumerated powers, but an indefinite one, subject to particular exceptions."

Henry Lee, now governor of Virginia, on seeing Hamilton's report, discharged a perfect broadside of strong language. Madison had sent it to him, remarking that "If not only the *means*, but the *objects*, are unlimited, the [Constitution] had better be thrown into the fire at once." Lee replied at length, holding forth on the indelible stain which the wicked measures of the Treasury had already inflicted on the country. "The money interest is growing daily more & more formidable, they are industrious, they combine they concert measures, they beset every avenue of information, & they bespatter the character of every individual who dares to utter an opinion hostile to the fiscal measures." Then he burst forth into the full flower of his fancy. If agriculture should triumphantly reign, said he, the new system would be upset, and Hamilton contemplate the debasement of the species: "A stout muscular ploughman full of health full of comfort with his eight or ten blooming children are not the most eligible inhabitants of a community which fosters funding schemes banks etc. and whose rulers affect to believe that public debt is public blessing. No, but squat bloated fellows all belly & no legs who can walk two miles in the hour & manufacture a little, are altogether proper. . . ." Thus Lee, who later became

a staunch Federalist. In January, 1792, he wrote, "I wish to god the debt could be discharged, the banditti paid off, & a like scheme prohibited in future." And later in the same month: "The longer is procrastinated the attempt of men like yourself to force administration into due obedience to the constitution, the more difficult & doubtful will the work be and all acknowledgements in favor of the adopted measures form additional obstacles."<sup>3</sup> There was no serpentine subtlety about Light-Horse Harry's call to battle.

Late in March, 1792, the speculative bubble broke, and great was the distress in New York. One Colonel Duer, described by Madison as the "Prince of the tribe of speculators", suddenly went bankrupt. "It is said by some," wrote Madison to Pendleton, "that his operations have extended to several millions of dollars, that they have been carried on by usurious loans from 3 to 6 per cent. per month, and that every description and gradation of persons, from the Church to the Stews, are among the dupes of his dexterity, and the partners of his distress." Duer was a close friend of Hamilton, and the latter's anxiety for his friend, coupled with his alarm over the consequences of his policy, drove him into activities which narrowly escaped being unethical. But Hamilton did not speculate himself, nor make gains from his own measures. There were riots and bankruptcies in New York, and business came to a standstill. Madison anticipated more trouble in Philadelphia, where the populace had more grounds for their resentment. In New York the whole business of speculation became as much despised as it had a few months before been adulated, and the "moneyed interest" itself was temporarily in a nasty temper.

And so, by the end of the session in May, Madison was completely a Republican. He had gone into open opposition, and in the same month Hamilton wrote a long letter to Carrington, outlining in detail his grievances against Madison. He charged him with deserting the cause of Federalism, with maintaining that Congress was at liberty to disregard the public faith and credit, with personal hostility, and with quite a list of political

crimes.<sup>4</sup> Jefferson, however, was even worse than Madison in Hamilton's estimation, for Jefferson had some ideas which were fundamentally unsound, and was "a man of profound ambition and violent passions". The gulf had long since opened between Jefferson and Hamilton, and no doubt Hamilton was discouraged and disappointed to find Madison indubitably ranged against him. Since their time, the discussion has foolishly raged as to which was actually defending the Constitution. Federalists have said that the Jeffersonians were against the Union, against order, decency, a strong government, and the principles of Americanism. Madison contended that it was Hamilton who had forsaken the Constitution, and was trying to "administer" the government into what he thought it ought to be. Time and the Supreme Court have upheld the Federalists, but it seems very clear that Hamilton was violating the Constitution as it had been understood by a majority of those who ratified it, if not of those who wrote it. There is no doubt whatever that Madison sincerely thought him to be acting contrary to its principles.

Meanwhile, the confused mass of public opinion hostile to the policies of Hamilton was slowly collecting into what would soon be called the Republican Party. The leader of this party was to be Jefferson; its doctrines were the joint product of Madison and Jefferson, ably assisted by John Taylor of Caroline. One of the most important steps in the process of organization was taken when a newspaper was set up to oppose the obsequious Federalism of Fenno's *Gazette*. Philip Freneau, a man of considerable literary talents who had been in college with Madison and Henry Lee, intended at about this time to start a paper somewhere in New Jersey. Lee heard of this, and suggested to Madison that Freneau be brought to Philadelphia, where his talents might have greater scope. Madison recommended the man to Jefferson, and he was given a position as translator in the Department of State, at a salary of \$250 a year, which was half that of the other clerks, but sufficient to enable him to run his paper. On October 31, 1791, appeared the first number of the *National Gazette*. It was mild for the first weeks; Madison

contributed a number of articles on general subjects such as Population, Emigration, Money and the like. But in December it began to attack the government, and by that time the exertions of Henry Lee and others had procured it a wide circulation. Its journalistic style was greatly superior to that of any other contemporary newspaper; it could not be ignored. And it was the first great force in moulding Republican opinion.

A multitude of small indications show that a party was in the building. Randolph wrote to Madison in July, 1791: "I need not relate to you, that since the *standard* of republicanism has been erected, it has been resorted to by a numerous corps. The newspapers tell you, how much the crest of aristocracy has fallen." From Richmond wrote Francis Corbin, as the legislature assembled in October: "Indisposed and unequal as I was to the task last year, I endeavoured to re-echo from this place your opposition to the act of assumption. Waving [sic] the inherent mischief of this measure and of the Bank Incorporation—I cannot help thinking it politick in Virginia to add as much Weight and Dignity as can be added to opposition so well-founded, so laudable, and so truly Republican as yours always is, by her Legislative Coincidence of opinion. I confess to you I was actuated a good deal by this motive at our last session." In December came a note from William Madison, saying that he was authorized to suggest a renewal of communications between his brother and Patrick Henry. To this remarkable suggestion Madison replied that he bore no malice, but having never been intimate with Henry in the past, could not presume upon the future.

The elections of the summer of 1792 produced some victories for the Republicans. In New York they actually won the governorship for Clinton, after a vindictive campaign in which Madison found a sardonic amusement in watching Schuyler "who is supposed to have made millions by jobbing in paper, under his own measures, accusing and abusing Clinton in the face of the world for jobbing in land under the same aggravation". Adams was reelected Vice-President, though not without strong opposition. Joseph Jones, in reporting the result of the

Virginia voting, opined that the educating of the public mind had not begun soon enough; Adams' notoriously aristocratic opinions should have been explained and interpreted more widely and emphatically.

Washington was easily reelected to the Presidency. But it had not been certain that he would accept the nomination. He was tired, disgusted with faction, troubled by the dissensions in his Cabinet, and anxious to retire. One morning early in May, 1792, Madison had received a note from Washington asking him to call. He found the President determined to retire, confident that someone else could fill his position with adequate ability, and wanting advice on the manner of announcing this decision to the country. Madison talked with him a long time, endeavoring to persuade him that he should remain, that the factions were not as serious as they seemed, that there was no other person with the necessary authority and popularity to direct the government. But Washington persisted, and requested Madison to think the matter over and give him his judgment as to a farewell address.

Late in May, while Madison was on his way to Orange, he met Washington on the road, and was given a letter informing him that the President had not been able to make up his mind to continue in office, and asking him to prepare the draft of a farewell address. This Madison did, but repeated his hopes that the decision would be reconsidered. Finally Washington changed his mind, and Madison's address was not used. When, four years later, the President took leave of his country, his speech was reviewed by Hamilton, and although everything in the earlier draft was included, so much was added that the famous document cannot be considered as the work of Madison in any important respect. This was almost the end of the confidential relationship between Madison and Washington, but it is plain that party spirit in 1792 had not yet separated the Republicans from the President.

In Freneau's paper of September 26, 1792, Madison published an article entitled "A Candid State of Parties". Making

some allowances for the heat of the moment and for the necessities of partisan strife, we may consider this as his true opinion of the situation. Two parties had grown up since the establishment of the Constitution, said he, and their characteristics were natural to the divisions of most political societies. "One of the divisions consists of those, who from particular interest, from natural temper, or from the habits of life, are more partial to the opulent than to the other classes of society; and having debauched themselves into a persuasion that mankind are incapable of governing themselves, it follows with them, of course, that government can be carried on only by the pageantry of military force. Men of these sentiments must naturally wish to point the measures of government less to the interest of the many than of a few, and less to the reason of the many than to their weaknesses. . . .

"The other division consists of those who believing in the doctrine that mankind are capable of governing themselves, and hating hereditary power as an insult to the reason and an outrage to the rights of man, are naturally offended at every public measure that does not appeal to the understanding and to the general interest of the community, or that is not strictly conformable to the principles, and conducive to the preservation of republican government."

This being the fundamental nature of the sections, Madison continued to point out what would be the conduct of each: "The anti-republican party, as it may be called, being the weaker in point of numbers, will be induced by the most obvious motives to strengthen themselves with the men of influence, particularly of moneyed, which is the most active and insinuating influence." On the other hand, the republican party, conscious that the mass of the people must be with them, both in interest and sentiment, would find their activity in burying all antecedent questions, and banishing every distinction save that between enemies and friends to republican government.

As long as he lived, Madison contended that at bottom the difference between the parties lay in their opposing views con-

cerning the ability of mankind to govern themselves. Other explanations have been offered, notably the theory that the parties were divided along economic and social lines. This was certainly true, and it can hardly be denied that the financial measures of Hamilton, with the speculation which resulted, were the first decisive factors in alienating Madison, Jefferson, and the people generally from the Federalist party. Nor can it be denied that to a great extent the Federalist party was held together by "the cohesive force of public plunder". This public plunder was deliberately created by Hamilton, for the purpose of building the best government he could build. No one grumbled more than Madison at the policy of the Treasury, but both he and Jefferson were as careful of property rights as Hamilton. Thus he felt that the difference was not one of fundamental economic principle, but simply one of political practice. Public plunder, to Hamilton, was not an end in itself, it was a means to the creation of a good government, in his own sense of the term. In that sense only a few of the people were worth consideration; the remainder must be ruled, drilled into shape, that they might not disturb the good life of the few. This was a reasonable idea, but it was not that of Jefferson.

Looking back on that time, we can perceive an important economic division between the parties, which was not wholly apparent to Madison, though it may have been to Hamilton. In a short essay on the "Republican Distribution of Citizens", contributed to the *National Gazette* of March 5, 1792, Madison presented the familiar Jeffersonian principle that "the life of the husbandman is pre-eminently suited to the comfort and happiness of the individual", and that the class of citizens "who provide at once their own food and their own raiment, may be viewed as the most truly independent and happy. They are more: they are the best basis of public liberty, and the strongest bulwark of public safety". Hamilton's policies, creating as they did "fluid capital", paper investments, manufactures, and the like, tended to overshadow agriculture by industry. Henry Lee had seen this and so had others, but it could not be realized at



that time that Hamilton quite certainly represented the future and Jefferson the past. Hamilton stood for the Industrial Revolution, for machines, cities, commerce, stock exchanges, England; Jefferson stood for agriculture, rural life, small holdings, hard money, France. Hamilton stood for capitalism, Jefferson for the rights of property. This was the real economic difference between the parties. Actually, Madison was expressing much the same thing in political terminology when he said that the difference was in the varying degrees of confidence in the mass of the people. But his mind did not and could not run beyond political thinking on this subject, except in a very vague way.

One more point must be noticed. Comparing the policies and programs of the two parties, that of the Federalists is positive in character; it emphasizes the things which the state is to *do*, the manufactures it is to encourage, the interests it is to foster. On the other hand, that of the Republicans is as notably negative, stressing the things it is to prevent, to remedy. This is not wholly due to the fact that the Republicans were a party of opposition. It is implicit in their political philosophy, as we have already seen in discussing the theories of Madison, and it is equally evident when they come to power. In this lay both the strength and the weakness of the party.

In the midst of all this political hubbub, it is easy to forget that the actors had any other interests. Particularly is this true of Madison, for whom politics was in fact the very breath of life. And yet he did think of many other things, especially of farming and of natural philosophy. We have quoted from his letter of June 29, 1792, to Jefferson a passage on the New York election, but by far the greater part of the ink in this epistle was used up in copying a long section on "Looming" or mirages, from no less obscure an authority than Crantz's *History of Greenland*, volume 1. Again, in May of 1791 Madison appends to a letter from New York on Tories, speculators, and Freneau a long and complicated description, with diagrams, of a contraption he has thought up to improve Jefferson's mechanism for a new-fangled dining-room table. Jefferson's incorrigible taste

for gadgets is well-known, and Madison may have caught the disease from him. It never developed in the younger man to any great extent, however, and his house never became the museum of devices that was Monticello.

Even his thoughts of state were not all on practical politics at this time. To Freneau's newspaper he contributed a series of short articles, some of which are of curious interest. There is one on Universal Peace, published in February of 1792, in which he criticises Rousseau's scheme for a league of sovereigns. Wars, says Madison, are of two kinds, those made by governments and those made by peoples. To avoid the first one must improve the system of government. To avoid the second is more difficult, but he suggests that "each generation be made to bear the burden of its own wars", and pay for them by heavy taxation without bequeathing a debt to posterity. Thus "avarice would be sure to calculate the expenses of ambition", and wars of folly would be avoided. Doubtless there was intended in this pious proposal a little dig at the funding system of Hamilton, for it was scarcely a plausible theory on its face.

There is also an extended paper on Money, which he had written in 1780, proving to his own satisfaction that the value of money does not depend upon the amount of it, but upon the credit of the country issuing the currency, for should there be a deficiency of money in any country, the flow of goods over borders would soon even up the scale of prices. Another article deals with population. In it he makes the astute observation that emigration from an old country may actually result not in the diminution, but in the increase of inhabitants of that country, by reason of the increased trade, food and resources supplied by the development of a new land. The point of the paper was to prove the desirability of free emigration to the west. A third discussed the government of the United States and observed, with some view to the situation of politics, that the division of powers between states and nation was one of the checks and balances which insured the preservation of liberty. It was

the duty of the people to see that each department remained within the bounds of its proper sphere.

But Freneau's journal did not confine itself to these relatively innocuous essays, and in the summer of 1792 another item was added to the list of party animosities. Late in July an anonymous article appeared in Fenno's *Gazette*, alluding pointedly to the fact that Freneau, who ran an opposition newspaper, was employed in the Department of State. Was his salary paid him for translations or for publications attacking the Hamiltonian policies? The original article was followed by a series which attacked Jefferson himself and were written by none other than Hamilton. This was his first lapse from the dignity of his position, but it was not his last; 1792 had been a hard year for him, with the financial panic, the defection of Madison, and many lesser troubles. Jefferson did not personally make any reply to these letters, but the *National Gazette* opened its pages to other writers. Newspaper warfare became acute and abusive.

All this affected Madison but slightly. Insinuations were made concerning his part in the business of setting up Freneau's paper, but he was not publicly named. The whole matter annoyed him, and he thought of joining the battle to refute the charges, but better judgment prevailed, and he contented himself with a private letter to Randolph explaining in detail the circumstances under which Freneau had begun his newspaper.

No one expected much of the last session of the second Congress which met on November 5, 1792. The Republicans had been successful enough in the elections so that they looked forward to a better time after the 4th of March. There was little to be done anyway, except to discuss the growing opposition to the excise tax, and to engage in party warfare, for which sport plenty of material lay to hand. The failure of the Indian campaign gave an opportunity for investigation, and the manner and proprieties of the investigation gave opportunity for recrimination. But the main feature of the session was a prolonged personal attack on Hamilton, perhaps the first piece of strictly

party politics, in the narrow and degrading sense of the word, in American history. It is a sad story even at best.

The first episode was private, and as far as we can tell was unknown to Madison. Hamilton was certainly paying money to a worthless man named Reynolds. Was this not corruption? Why was the money changing hands? James Monroe, with two other Republicans, went to Hamilton's house and laid their facts before the Secretary, asking for an explanation. They got it. The money was paid, not in public graft and corruption, but in blackmail, because of an intrigue which Hamilton had carried on with Reynolds' wife. Monroe's companions were ashamed of themselves, but Monroe himself was complacent. If the story had been kept quiet the investigation would have been no more than just, but it was not. Hamilton's personal weakness eventually had to be published abroad in a pamphlet signed by himself, and politics reached one of its lowest ebbs of decency.

The next stage of the struggle was more respectable, but still was mainly one of party politics and not of principle. In the course of long and complicated discussions of the public finances during that winter of 1792-1793, it became evident that certain mild irregularities had been committed by the Secretary of the Treasury. Money borrowed abroad by order of Congress to pay the French debt, had been brought to America and used in dealings with the domestic debt and with the Bank. Hamilton, in fact, was not paying the French because he was not sure that there was any French government to receive the money. But as the Republicans gradually realised that something was amiss, they set to work, questioning every detail of the financial propositions of the Secretary. They were now reinforced in the House by the considerable debating abilities of William B. Giles of Virginia, who had begun his long and vociferous public career toward the end of the preceding session.

On January 23 Giles moved a set of resolutions calling for a complete report of the fiscal operations of the government, since its beginning. There was nothing improper in this save that it



DOLLY MADISON



gave the Secretary little time before the end of the session to prepare his figures. Hamilton set to work and produced between the 4th and the 19th of February a remarkable series of reports, setting forth in perfect detail the entire history of his department. The Jeffersonians complained that they could not understand the figures, and they very probably could not, for Gallatin had not yet furnished them with an outstanding financial mind. But they met and considered. Madison's papers of this period are full of figures, computations, outlines of attack. It appeared, beyond any doubt, that the Secretary had not scrupulously followed the prescriptions of Congress in their appropriation bills, and had not informed the legislative body of his deviations. Just as certainly it appeared that the United States had lost nothing by his freedom, but that the transactions of the Treasury, within the policy of the government, had been scrupulously honest, and extremely able. But there was material for political warfare, and there was, after all, a principle involved. Hamilton should have followed the letter of the appropriation bills, or at least he should have informed Congress of his variations, and of the reason for them. It is quite possible to justify what followed, especially as Madison in particular was deeply convinced that every act of the government in these early days formed a precedent for the future, and hence must be scanned with more than ordinary vigilance.

On the 27th of February Giles brought forward resolutions censuring the Secretary of the Treasury for his conduct. These resolutions had been painfully worked out by the Republican leaders, Jefferson and Madison. They were so timed that action on them might be impossible before the termination of the session and the country would know only the ill sound of them. But the Federalists would not have it so. They brought them up immediately, and for two days there was debate. Madison made a long speech, temperately stating his views, making no charges of corruption, but only of constitutional impropriety. And finally, in a tense House, with the galleries crowded, the resolutions were taken up, one by one, and overwhelmingly defeated. The

Republicans had overshot the mark. The Congress dissolved. But the Republicans were not finished. In the summer they published a list of the votes in Congress, and an analysis of them. "Of the thirty-five supporters of Hamilton, twenty-one were set down as stockholders or dealers in the funds, and three as Bank directors." The "moneyed interest" was still there to provide a war-cry.

Meanwhile in January Turberville had written to Madison, announcing that he meant to get the legislature of Virginia to address a "Remonstrance in the most solemn Mode from the State to Congress, in which our Sister States shall be invited to concur". He asked Madison for an authentic and complete statement of the "Public paper interest", including the funded debts of the Bank stock. He was convinced that nine-tenths of the paper was in the hands of persons north of the Susquehanna, and seven-eighths of the revenue raised from the states south of that river.<sup>6</sup>

This scheme for an early "Virginia Resolution" came to nothing, but other projects did. There had appeared in the Senate, towards the end of this session, Colonel John Taylor of Caroline, who was to prove one of the strongest intellectual forces in Republicanism. He had been opposed to the Constitution, and was known as an inexorable republican. Upon the resignation of R. H. Lee he was chosen to the Senate, although he had no taste for such duties. Scarcely had he arrived when Madison wrote of him to Pendleton: "I seize the opportunity . . . to tell you how much we have been charmed with the successor to Col. R. H. L. & to entreat your co-operation with a number of his other friends in overcoming his repugnance to his present station. His talents during the fraction of time he has been on the federal theatre have been of such infinite service to the republican cause, and such a terror to its adversaries, that his sudden retirement, on which he is strongly bent, ought to be regarded as a public calamity. . . ." In May Taylor wrote to Madison, saying that the next session of Congress ought to see an assault on the Bank law, and that he had written a pamphlet



on the subject, which he would presently submit for Madison to advise whether it should be committed to the flames or to the press.<sup>7</sup> This "pamphlet" when it finally appeared, proved the strongest and best-reasoned argument against the practices of the Treasury that had come out, and it would not be wrong to say that Taylor supplied the intellectual basis, if not for Republicanism, at least for anti-Hamiltonianism.

"The next session," wrote Madison, "will form a critical epoch in our political History. Much will depend on the turn our affairs will then take." There was now a party system, and the second administration of Washington opened on March 4, 1793, with the threatenings of great events. But already there had arisen issues which soon overshadowed the Bank, the Funding system, and every other question which had exercised the national councils. From this moment the consciousness of the country turned towards foreign policy.

## CHAPTER IX

### *FOREIGN AFFAIRS—MARRIAGE*

1793-1797

**E**ARLY in 1793 there spread through the country the news that the army of Dumouriez had turned back the invading forces of the Duke of Brunswick at Valmy and saved the French Revolution. The leaders of American opinion, including Jefferson and Madison, had long been watching the course of events in Europe with much sympathy and interest, but it required the dramatic events of the invasion to arouse the people generally. Almost immediately an uproar of enthusiasm broke out. In Boston an ox was roasted, and borne about the streets in procession; in New York the braves of Tammany rejoiced in democratic festivities; far to the south in Charleston the populace poured into the streets for a day of celebration. Poems, panegyrics, and sober articles appeared in the newspapers. Men began to call each other "Citizen", to wear "liberty caps", to set up "liberty poles", and to adopt the curious jargon of the great movement which was soon to convulse the whole western world.

Nor was this any temporary and passing phenomenon of public feeling. From this year of 1793 until the echoes of Waterloo died away in 1815, European events and issues dominated American politics. It was entirely natural that this should be so. America was by no means segregated from Europe socially and economically, and her political independence was young and weak. Ancient friendship with France, old ties with England, bound every mature man to the old world. The western nations were entering upon a tremendous crisis, and it was inevitable that the United States should bear a part in the drama, insignificant though it might be.

It happened that the two political parties divided almost immediately upon the question of foreign policy. After Valmy came news of the execution of Louis XVI, and while some good

republicans shuddered, most agreed with Madison that "if he was a Traitor, he ought to be punished as well as another man". When word came in April that England had joined the encircling ring of despots and tyrants in an endeavor to crush the newly-won liberties of France, the average democrat forgot his doubts. It was scarcely a decade since France had come to the aid of the United States against England, and the liberties of Americans were largely due to the assistance of their ally. Should they now desert France in her hour of need, and disregard the treaty of friendship and alliance, which was still in force? These simple ideas deeply stirred the great mass of the population, and Jefferson saw that an issue had arisen which would truly move the *republican* section of society. Democracy against Monarchy; France against England; these became the battle-cries of politics.

The Federalists had sound reasons for their English proclivities. By far the greater proportion of American trade was with England, and it was carried on mainly by Federalists, who therefore harbored no quixotic notions of aiding France and ruining business. Every man who distrusted democracy, and there were many, was likely to distrust also the French Revolution. Those who had been Tories, those who had friends in England, those who admired royalty, those who sympathized with the French aristocracy, were all apt to be found in the ranks of the Federalists. Thus it was not long before the Bank and the funding system dropped into a subordinate place, and the principal issue in American politics became that of France versus England.

Friendly as the Republican leaders were to France, none of them wished to rush into war. Monroe realized that American neutrality would actually be more useful to France than American belligerency, for the former course left our shipping theoretically free from molestation by the British navy, and our shipping was far more helpful to France than our armies could possibly have been. Therefore, when the Cabinet met in April, there was agreement between Jefferson and his colleagues that a proclamation should be issued by the President, calling upon

Americans to refrain from acts unfriendly to either side. Likewise, the Cabinet decided to receive the minister which the French Republic was sending, although Hamilton wished to reserve judgment as to the status of the treaties.

On April 22 appeared Washington's proclamation, couched in words which became peculiarly important: "Whereas it appears that a state of war exists . . . and that the duty and interest of the United States require that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial towards the belligerent powers:

"I have therefore thought fit, by these presents, to declare the disposition of the United States to observe the conduct aforesaid . . . and to exhort and warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever, which may in any manner tend to contravene such disposition." A final paragraph announced that the protection of the government would not be given to any citizen who became liable to punishment under the law of nations for abetting hostilities. Meanwhile, on April 8 the French minister Genet had landed at Charleston, and begun his triumphal progress to Philadelphia.

Madison spent the greater part of this year in Orange, since Congress was in recess from March to December. In April he composed a laborious letter to M. Roland, Minister of the Interior of France, thanking him for the honorary title of French Citizen which the National Assembly had bestowed upon him during the preceding summer. When the President's proclamation appeared Madison grumbled, and as the summer went on his grumbings changed into a corrosive criticism of the state of affairs. May 8, he felt that the term *impartial*, in the Proclamation, was stronger than necessary, but agreed that peace was to be preserved at any price. By June 10 the Proclamation was "an unfortunate error", wounding the public feelings by a seeming indifference to the cause of liberty. He began to question whether the President had any right to declare the "disposition" of the country. Although the word "neutrality" had been carefully avoided in the Proclamation itself, certain subsequent pro-

nouncements of Washington to gatherings of merchants had gone rather further. Madison detected an "Anglified" complexion in the Executive, and as the weeks went by he began to write of the "Anglicans" and the "Monocrats" about Washington, who had led that great and good man astray.

The general discussion of the Proclamation grew in volume, until every paper in the country seemed to be holding forth on whether or not we were fulfilling our obligations to France, whether the President had not arrogated to himself unconstitutional rights in making his declaration, and so on. In July there appeared in Fenno's paper a series of able articles signed "Pacifcus", written by Hamilton. These argued in favor of the Proclamation, and put forth lofty notions of the President's prerogatives. No effective answer was made, and Jefferson became alarmed. "For God's sake, my dear Sir," he wrote to Madison, "take up your pen, select the most striking heresies and cut him to pieces in the face of the public." Eventually, with some hesitancy, Madison consented, and amid the discomforts of a particularly torrid Virginia summer he produced a series of articles signed "Helvedius", effectually disposing of Hamilton's constitutional contentions, and using among other arguments some from *The Federalist* for which Hamilton himself was responsible. The authorship of the Federalist papers was not, of course, disclosed, but the newspaper battle between Pacifcus and Helvedius attracted a great amount of public attention, since everyone knew who the real contestants were.

But more perplexing and irritating to the Republicans than the proclamation itself were the incidents surrounding the career of Genet. Shortly after the Frenchman landed, Madison expressed the sincere hope that he would be warmly welcomed, and that the true voice of the country would be manifested, rather than the "fashionable cant" of the cities. He can scarcely have been disappointed, for the French minister was received with the wildest acclamations in Charleston, and his journey to Philadelphia was a series of tumultuous rejoicings, dinners, routs, liberty poles, and every other expression of enthusiasm.

Some of the towns, such as Alexandria, succeeded in suppressing the wilder demonstrations, but in the main his reception left nothing to be desired.

Indeed, it went to his head, and he soon began to presume upon the attitude of the people. The administration, quite properly, refused to allow him to grant letters of marque, and send out privateering vessels, which should bring their prizes into American ports. Genet persisted, and eventually threatened to appeal from the President to the people. Secretly he inspired newspaper articles attacking the administration. The Republicans were horrified, for by such actions he was rapidly alienating the sober opinion of America. "Your account of Genet," wrote Madison to Jefferson in July, "is dreadful. He must be brought right if possible." And later Madison described his conduct as that of a madman.

The Federalists did not hesitate to make capital out of this. By identifying the foolishness of Genet with the policy of his country, opinion could easily be turned away from the French, and by August, Madison had detected that this was a deep-laid plan. "I discover that a determination has been formed to drag before the public the indiscretions of Genet, and turn them and the popularity of the President to the purposes driven at. Some impression will be made here, of course. A plan is evidently laid in Richmond to render it extensive." The trouble was that while meetings could be held and resolutions adopted in the towns, which were generally Federalist and "heretical" anyway, nothing could be done to focus the sentiment of the countryside. Madison never for a moment questioned that the sentiment of the rural districts was Republican and pro-French, and that the feelings of towns were wrong and those of the country right.

So now for the first time he turned his hand to political management. John Taylor had completed his pamphlet on the Bank, and on August 20, 1793, Madison visited Monroe to make arrangements for its publication. Between August 20 and September 1, the two men set a new scheme in motion. They sent letters around the country, setting forth the situation and the need

for "collecting the public mind". Enclosed with the letters were Resolutions ready drawn up for adoption by country meetings. These affirmed a devotion to the Constitution, to the President, and to Peace, but also to the cause of France and of liberty, and they denounced all attempts to disturb the intimate and friendly relations between the two countries as tending to a closer connection with Great Britain, and as a step towards "assimilating the American government to the form and spirit of the British monarchy".

These resolutions were intended to counteract those which had been adopted in various Federalist towns. A copy was sent to Caroline, in the hope that Pendleton might sponsor them. Another went to the district court at Staunton, in the hands of Monroe himself, and a third was brought up at the court held at Charlottesville. Madison was not confident of the result, but in Staunton Monroe reported that the resolutions had admirably fulfilled their purpose. In Culpeper county also a meeting produced results "tinctured with neither Anglomany nor aristocracy". John Taylor wrote from Caroline that immediately upon the receipt of the letter word had gone out through the country and a meeting of the most irreproachable republicanism had been held.<sup>1</sup> These matters were published in the newspapers, a sympathetic reply of Washington's to the Caroline resolutions was widely heralded, and the painful feelings aroused by the conduct of Genet were thus slightly offset. Eventually that minister was disowned by his country, and a new one sent, who carried out his duties with more respect for the proprieties and less menace to the republican cause.

The Jeffersonian talk of Anglicans and Monocrats has, on the whole, received scant sympathy from historians. Doubtless it was largely inspired by political partisanship and misplaced sentiment, and it is just possible that the Republican policy, if followed out, would have led immediately to the disastrous mistake of a war with England. But nothing in the writings of Madison or Jefferson indicates that either one was less anxious for peace than the most prosperous Federalist trader. They

were, however, intensely distrustful of England, and they showed an exaggerated fear of monarchical tendencies among Federalists in the United States. These feelings provided their public justification for a Francophil attitude, and there was rather more sense in them than is sometimes admitted. For it was scarcely possible, a decade after the Revolution, to look forward with entire confidence to the triumphant future of the American Republic, weak as it was, surrounded by the territories of powerful monarchies, and subject in any crisis to the sea-power of England. The United States had thrown away many of the most cherished political institutions of history, and were attempting an experiment in government which was, quite possibly, foredoomed to failure. The burden of proof was entirely on the shoulders of the advocates of popular government.

Madison believed, not without reason, that the northern Federalists were more interested in trade than in republicanism. He also believed that France was fighting the battles of republicanism in Europe, and that it well behooved the Americans to give what support they might to the cause of their own institutions as well as to that of their ancient ally. For these reasons Madison denounced the "Anglified" character of the Executive, and the frequency with which he reiterated the ideas which have been outlined indicates that they formed the basis of his opinions, at least to the extent to which political manoeuvrings are ever founded upon rational bases. It so happened that within fifteen years the state of international politics was reversed, and England became the defender of liberal institutions against the excesses of Napoleon. When that time arrived, American Federalists waxed eloquent in praise of freedom, while Madison was constrained to talk of other things.

In January, 1794, the discussions were renewed in Congress. Jefferson had resigned as Secretary of State on December 31, leaving behind him an able report on the state of American commerce and the embarrassments which it suffered from British mercantile restrictions. Reinforced by the facts contained in this report, Madison introduced a set of resolutions reviving the



old idea of discriminating duties against England. The principal speech in opposition was made by Smith of South Carolina, but was supposed to have been written by Hamilton, and debate continued through March. Federalists contended that the passage of such duties would lead to war, that Great Britain treated us no worse than other nations, that her intentions toward us were "amicable", that we had no benefit subservient to France. The Republicans contradicted this point by point, and the country at large watched the discussion with interest. In Boston a newspaper attacked Madison, called him a tool of France, and blamed him for the acts of Genet. Yet a Boston town-meeting was barely prevented by the oratorical talents of Harrison Gray Otis from going on record as favoring the resolutions. From Charleston came a letter to "Citizen Representative" Madison from the Republican Society of the city, commending him for his stand, and signed by "S. Drayton, Citizen President". The citizens of Charleston hung and burnt the effigies of "Smith Ames Arnold Dumouriez & the Devil, *engroupe*". In New York and Philadelphia, meetings expressed rather more agreement with Madison than some opponents expected.

England now unexpectedly came to the assistance of the Republicans. Pursuant to Orders in Council of November 6, 1793, American ships trading in the French West Indies were stopped and their cargoes confiscated by British war vessels. This forced even the Federalists to make some indication of resentment. Having accused the Republicans of wanting war, they proceeded themselves to introduce measures in favor of a standing army. They built six frigates, ostensibly for use against the Algerine pirates, and levied an "indirect" tax upon carriages to pay for them. They proposed that the President should have authority to declare an embargo, to raise an army, and to declare war during the recess of Congress. All this, Madison felt, was merely another example of their insidious custom of making every question and every crisis subservient to their object of gaining more power for the Executive. Eventually, the House voted an embargo for thirty days, but retaliation was postponed while an

envoy was sent to negotiate directly with England. After Hamilton had been rejected by the political sense of his party, John Jay was sent across the ocean with very definite instructions concerning the problems he was to settle, and Madison's commercial resolutions passed gently out of existence.

The resolutions nevertheless exemplified a theory of foreign affairs to which Madison and many other Republicans clung with incredible devotion for more than twenty years. It has been shown that one of Madison's principal motives in advocating a new Constitution was his desire to counteract the mercantilism of England by a vigorous commercial policy in the United States. Such a policy was impossible under the Confederation, and under the Constitution it had never been attempted, despite his strenuous efforts in 1789. Spurred on by the crisis of 1794 he formed his ideas into a system, which he explained in a pamphlet thus: "Great Britain is a commercial nation. Her power, as well as her wealth, is derived from commerce. The American commerce is the most valuable branch she enjoys. It is the more valuable, not only as being of vital importance to her in some respects, but of growing importance beyond estimate in its general character. She will not easily part with such a resource. She will not rashly hazard it. . . . If anything, therefore, in the power of the United States could overcome her pride, her avidity, and her repugnancy to this country, it [is] justly concluded to be, not the fear of our arms, which, though invincible in defence, are little formidable in a war of offence, but the fear of suffering in the most fruitful branch of her trade, and of seeing it distributed among her rivals." <sup>2</sup>

Commercial restrictions thus became the most powerful weapon in the armory of Republicanism, and it grew to be the rooted conviction of Madison and Jefferson that England was so vulnerable in her trade as to make other modes of attack unnecessary. This belief sometimes passed the bounds of reason. "What a noble stroke would be an embargo!" wrote Madison to Jefferson at a critical moment in 1796; "It would probably do as much good as harm at home, and would force peace on the rest of the

World, and, perhaps, liberty along with it.”<sup>3</sup> It was well that this letter was a private one, for the average Yankee merchant would certainly have smiled at the notion that an era of universal peace and republicanism could be brought about by starving the West Indies. To an impartial observer it would appear that the Republican theory of commercial warfare, which might have been sound enough in a milder age than that of Napoleon, collapsed irrevocably in 1809 amid the wrath and tears of the embargo. Yet its devotees retained their faith in it, and were never entirely reconciled to the use of military weapons in 1812. Their faith was buttressed by the unfounded belief that England, who repealed in January, 1794, her decree of November, 1793, had done so because of alarm at the prospect of commercial restrictions.

All hope for a general settlement now lay in the success of Jay's negotiations. A few days after Congress adjourned, in March, 1795, the treaty arrived, and the Senate was summoned for June 8. Meanwhile, the provisions of the agreement were kept secret, and even when the Senate met only thirty-one copies were printed for the use of its members. Senator Pierce Butler promised to send Madison the treaty, a page at a time, but there is no evidence that he actually did so.<sup>4</sup> Jefferson had not seen it even by July 13, although Butler had instructed Madison to hand on the pages to his friend. On June 30 Senator Mason of Virginia defied the rule of secrecy, gave the treaty to the press, and ended the state of uncertainty and discontent which vague reports had produced.

The treaty was very bad indeed. It amounted almost to an alliance with England; the United States got little, and England nearly everything she desired. Its only justification was, and still is, that it was the best that could be procured, and that it preserved the neutrality of the United States during this puny and formative stage of national development. Since Madison and the Republicans considered that the chances of war were negligible in any case, they were unimpressed by the argument, and they were grieved that all chance for commercial retaliation

upon England was surrendered for as long as the treaty remained in force. But the Senate ratified.

Public opinion was not easily reconciled to this transaction. Up and down the country Jay was burnt in effigy, the treaty was denounced, meetings were held, mobs marched in the streets, handbills were pasted about, and there was a general uproar. Stones were thrown at Hamilton during a meeting in New York. In Boston this remarkable legend was chalked on a wall: "Damn John Jay! Damn everyone who won't damn John Jay! Damn everyone who won't put lights in his windows and sit up all night damning John Jay!" New Hampshire, led by Senator John Langdon, refused support to the treaty. In Virginia Wythe was chairman of a protest meeting held in Richmond, home of Virginian Federalism. Thus it went on through the land, with many of the rich and powerful joining the mob in opinion, if not always in act.

But the reaction soon set in. Chambers of commerce and assemblies of merchants came around to the opinion, though not always unanimously, that unless the treaty were ratified there would be war. Hamilton wrote a series of papers signed "Camillus" in defence of the treaty which converted many waverers. "Hamilton is really a colossus to the anti-republican party," wrote Jefferson to Madison. "In truth, when he comes forward, there is nobody but yourself who can meet him." But Madison, although he was outraged by the treaty, and wrote a long letter to R. R. Livingston denouncing it clause by clause, refused to publish his arguments. Gradually, Federalist opinion coalesced, and Washington signed the ratification. There can be little doubt that it was the wisest course.

But the struggle was not yet over. Legislation by Congress was necessary to carry the treaty into effect, and when the House of Representatives met, it called upon the President for the papers connected with the negotiation. Washington refused, and an arduous debate arose over the powers of the House. For weeks the talk was spun out, while to Madison the progress of the business was "the most worrying and vexatious that I ever

encountered". He made long speeches, attacking the principal clauses of the treaty, and contending that the House had power to refuse legislation necessary for carrying out a treaty, even though it were ratified in proper form by the President and Senate.

The House sustained its demand for the papers, but late in April petitions in favor of the treaty outnumbered those against it. Madison charged that the banks, the merchants, and the insurance companies "were at work in influencing individuals, beating down the prices of produce, and sounding the tocsin of foreign war and domestic convulsions". "Scarce a merchant or Trader but what depend on discounts, and at this moment there is a general pinch for money. Under such circumstances, a Bank director, soliciting subscriptions, is like a highwayman with a pistol, demanding the purse." The Republican party in the House became disorganized; Fisher Ames was carried from Massachusetts, ill as he was, to make a remarkably dramatic speech, and finally the House voted to put the treaty into effect. Thus they actually reversed their own action in sustaining their call for the papers. No constitutional problem had been solved, and the party of Jefferson and Madison had suffered a severe defeat.

Immediately after these events, there was a lull in partisan warfare, and in fact a considerable reaction towards Federalism. Washington was now generally identified with that party, and the more astute politicians of that side took care to encourage this belief. The impression was spread abroad that the Republicans in the House wished to start a war, and the cry went up to "follow where Washington leads". Some stupid attacks upon the President by opposition newspapers completed the public disaffection, and as the elections of 1796 approached, the Republican party reached a low ebb of popularity.

## 2

It was in the midst of the alarms of 1794 that Madison, who gave some evidence of being an irretrievable bachelor, renounc-

ed that status, and acquired for himself and for American history the renowned Dolly. The story was rather curious. In the late summer and autumn of 1793 a terrible scourge of yellow fever visited Philadelphia, and became so disastrous that Washington asked Madison if the Constitution would permit him to summon Congress to another place. But by the beginning of the session in December the plague had subsided, and no constitutional problem arose. Among the victims of the fever was Mr. John Todd, a young man of no great importance. He left, however, a widow of twenty-five and an infant son.

This young widow, Dorothea Payne Todd, was of Virginian descent, but her parents, becoming Quakers, had freed their slaves and come to Philadelphia in 1783. After the death of her father, his widow was left in straitened circumstances, and took in a few boarders. Dolly married John Todd in 1790 and the two lived at her mother's home. When Todd died, on October 24, 1793, the two ladies again looked for a few likely gentlemen to board when Congress assembled.

Among the lodgers was Senator Aaron Burr of New York. Apparently Madison had seen and admired Dolly Todd, and asked Burr to give him an introduction. It is related that Dolly fluttered a bit at receiving a visit from "the great little Madison", who was now forty-three years old, and famous. Certainly he corrected past faults, and pressed his suit with rapidity and success, for by the summer of 1794 all had been arranged, and the blessing of the Washingtons secured. On September 15 the two were married at Harewood, the estate of George Steptoe Washington, a nephew of the President and a brother-in-law of Dolly. Harewood was in the present state of West Virginia, and there the couple remained until October, while the forces of the government were suppressing the Whiskey Rebellion in western Pennsylvania.

There is no mention in any of Madison's letters of his intention to marry, nor of the charms of Dolly. There remains only one torn and unsatisfactory fragment of a letter which he wrote to his betrothed in August. From Harewood he announced the

event to Jefferson in this characteristic sentence: "I have remained [here] since the 15th Ult: the epoch at which I had the happiness to accomplish the alliance which I intimated to you I had been sometime soliciting".<sup>5</sup> Doubtless the recent widowhood of Dolly accounted for the extraordinary privacy which surrounded the ceremony of the 15th Ult; but in any case Madison was not one to display his personal feelings to the public view.

Yet Madison was no grim recluse. He was noted for witty conversation, for the number of his anecdotes, and like Jefferson, for his skill at chess. Horatio Gates, the revolutionary soldier, addressed to him the following agreeable invitation in March, 1794: "The latter end of June . . . a number of us propose . . . to go to Bath Town Springs, near Saratoga. This Bethesda, they say, cures all diseases, makes the Old Young, and the Ugly Handsome! There are good accommodations, & excellent Living, two things, joined to the Two others, with a good Society, & fine Girls! might tempt even Plato, when as young as you." Since Madison was doubtless even then sighing over Dolly, this could not tempt him. He found his recreation in farming, and perhaps in horse-racing, for which he apparently had some taste at a later date. In 1794 his sister Fanny decided to take lessons on the "Forte-Piano", and the elder Madison wrote to his son, asking that inquiries be made as to the purchase of one of these instruments. "I have applied to Carr," answered the statesman, "and obtained the enclosed account of his Forte-Pianos. The grand ones are as large as a Harpsichord & of the same form. The small ones would not occupy more room than a common square dining table with the leaves down. The advantage of the large ones consists in the superior swell of the notes. But on this point Fanny can get sufficient information from her friends, or from the person you have in view for her Teacher." Apparently the family hectored the eldest son on this subject, for he took occasion somewhat later to throw cold water on the scheme: "I will attend to your wishes as to a Forte Piano &c. Unless the girls have extraordinary talents for music I

doubt the advantage of bestowing much time on an accomplishment which will be but imperfectly attained, and as experience shows, but for a few years exercised.”<sup>6</sup> It would, perhaps, be interesting to know what Madison thought of Jefferson’s violin-playing.

As everyone knows, the marriage with Dolly was a great success. Charles Pinckney, whose recollections could not always be trusted, reminded Madison in 1800 that “we used often to talk about Matrimony”. “I have much curiosity to see your Lady,” he continued. “I have heard everything I could wish of her, for certainly if ever a man deserved a good wife you did. Had you unfortunately got, as Doctor Johnson says, into a state of Genococracy (is it right spelt) or petticoat government, I know no man I should have pitied more nor none I could have more sincerely wept over.” Mrs. Madison was not a woman of much intellect or of great beauty, but she succeeded by virtue of her gracious and amiable nature, her vivacity and abounding hospitality, in offsetting some of the stiffness of her husband. Henry Lee, now turned Federalist, offered his congratulations a week after the wedding. “She will soften I hope some of your political asperities,” he wrote.<sup>7</sup> She softened no political asperities, for Madison was too old to be reformed, but she won the affection of great numbers of people, a feat which her husband was never able to accomplish until old age mellowed him. Furthermore, despite the conspicuous difference in their temperaments, she and Madison lived together for more than forty years in complete harmony. Due to the fact that Jefferson was a widower, Mrs. Madison presided over the first sixteen years of Washington society, and this long reign, together with her amiable qualities, have given her an almost legendary place in the nation’s history.

Towards the middle of October, Madison and his wife journeyed over the mountains to Philadelphia, a trip so arduous that it ruined the carriage. They took up residence in the house formerly belonging to Monroe, who had been sent as minister to France, and remained there during the winter. Next summer,



just as the text of Jay's treaty was disclosed, Representative Swanwick of Pennsylvania wrote to Madison, saying that he had discovered a neat three-story brick house, with a yard, coach-house, stable, and "two Rooms & a kitchen on a Floor", on Spruce Street. The owner, Mr. Gamble, would paint, paper, and whitewash the place, and rent it for two hundred pounds a year, beginning in August. On June 30 Madison wrote, taking the house, and Dolly gave orders that firewood be put into the cellar.

## 3

The situation of domestic politics during the October days of 1794 when Madison and his bride drove over the hills to Philadelphia was not without interest. In western Pennsylvania, the so-called Whiskey Rebellion, a rather unimportant uprising of discontented farmers, had been crushed by the arrival of a large force of soldiers. Prisoners were brought back and paraded before the ladies of Philadelphia, though only two men were actually convicted by the courts, and both of these pardoned. Madison's opinion of this rebellion is edifying: "The event was in several respects a critical one for the cause of liberty, and the real authors of it, if not in the service, were in the most effectual manner, doing the business of Despotism. You well know the general tendency of insurrections to increase the momentum of power. You will recollect the particular effect of what happened some years ago in Massach<sup>ts</sup>. Precisely the same calamity was to be dreaded on a larger scale in this Case. There were eno' as you may well suppose, ready to give the same turn to the crisis, and to propogate the same impressions from it." "Calamity" indeed. Perhaps it was well for Madison's reputation that this letter was intended only for the eyes of Monroe, who was far away in France. Nothing in its author's other writings indicates that he actually thought the Constitution a "calamity", and we may best believe that the words quoted are not to be taken too literally.

Madison was in fact much more cautious of revolution and insurrection than was Jefferson. When he arrived in Philadel-

phia, the "fashionable speech" was that a standing army would be necessary for enforcing the laws. But Washington could not be converted to this view, nor was the opinion of New England likely to be favorable, and no such scheme was tried. Madison felt, nevertheless, that the only thing which saved the country from disaster was that "with a spirit truly Republican, the people everywhere and of every description condemned the resistance of the will of the Majority, and obeyed with alacrity the call to vindicate the authority of the laws".

When Congress met, a new scheme against Republicanism was tried. The President, in his address, denounced "certain self-created societies", meaning the Democratic Societies which existed throughout the land. With the Whiskey Rebellion as a text, he endeavored to throw suspicion on them as the principal fomenters of resistance to the laws. Nevertheless, their existence was perfectly legal, and entirely in accordance with the natural right of man to foregather and express his sentiments. Madison, who as usual was on the committee of three appointed to draw up an answer to the President's speech, wished to pass over this reference to the societies without comment, and he persuaded another member to agree. But in the House a motion was introduced to include a denunciation of the societies. Thus there appeared, according to Madison, evidences of a "dangerous game". "The insurrection was universally and deservedly odious," he wrote. "The Democratic Societies were presented as in league with it. The Republican part of Congress were to be drawn into an *ostensible* patronage of these societies, and into an ostensible opposition to the President." Thus New England was to be encouraged in anti-republicanism, and the rights of man put in danger. Madison thought this address of the President "the greatest error of his political life", and although it may have been due to inadvertence, Washington was certainly placed by it in the party of the Federalists. After an acrimonious debate in Congress, and some spirited comment in the newspapers, the reply was passed as drafted by the committee.

The remaining years of Washington's administration, troubled though they were by foreign alarms, were comparatively uneventful in domestic affairs. Hamilton withdrew from the Cabinet in February, 1795, and went to New York to practice law "with the word poverty for his label", as Madison ungraciously put it. Knox followed, "as the substance the shadow", and the Cabinet had to be made up of comparative nonentities. Randolph retired under a cloud in the summer, breathing maledictions upon Washington. The Yazoo land scandal, of which more will be told later, broke in Georgia, and from South Carolina one Robert Simms forwarded to Madison a petition asking that the House of Representatives impeach the President and twenty Senators. This comprehensive proposition amused even Madison, who gently reproved Mr. Simms.

The election of 1796 was fought, as has been seen, under the influence of the passage of Jay's Treaty. It had early become known that Washington would not run again. The Federalists pitched upon John Adams and Thomas Pinckney as their candidates, the Republicans upon Jefferson. So far as we know Madison took little part in the campaigning, though he was instrumental in persuading Jefferson to allow his name to appear as a candidate. Not until January 8 was it clear that Adams would have most electoral votes, with Jefferson second, and hence that the Republican chief would be Vice-President. Madison admitted that such an office was insufficient for his friend, but considered it "essential" that he accept it. At the beginning of 1797, there was some hope that John Adams would be at least partially amenable to the counsels of Jefferson, for he had taken a dislike to funding, and a decided split was beginning to appear between him and Hamilton. Under these circumstances Jefferson betook himself to preside over the Senate, and a new and eventful administration opened. Since Jay's Treaty France had taken a higher tone with the United States, and begun to match English depredations upon our commerce with her own. Timothy Pickering, the new Secretary of State, was a particularly

cantankerous Yankee, with no intention of calming and soothing the French, and despite the efforts of Monroe relations became strained. Dark days were ahead for the Republicans.

But Madison had had enough of Congress. Thoroughly tired of political warfare, he yearned for the quiet of his home, and for a peaceful existence with his wife. To his father he sent instructions that he was not on any account to be considered a candidate either for Congress or for the State Legislature, and in the spring of 1797 he sub-let the house in Spruce Street and journeyed back to Orange. It was the end of his Congressional career.

Judged merely by the success which had attended his parliamentary efforts, the eight years which Madison had spent in the House of Representatives appeared almost futile. He had indeed been the guiding spirit during the first puzzled sessions of the new legislature. But thereafter he had been consistently on the losing side. The measures which he had opposed, such as the funding bills, the Bank, and the treaty, had been passed over his opposition; the measures he had favored, such as commercial regulations against England, had been rejected. Of all the more conspicuous achievements of the Congress he could rejoice only in the location of the National Capital, and his satisfaction in this was clouded by the manner of its accomplishment.

But the value of Madison's services in Congress cannot be judged in this way. If he had failed in gaining a majority to support his policies, he had succeeded in creating one of the most indispensable branches of a free government: the Opposition. An Opposition must be founded on principles broad enough to gain many adherents, and it must be reasonable, but above all it must be loyal to the fundamental ideas on which the government is based, and this loyalty must be beyond serious question. In this sense a republican opposition to a monarchical government, or a communist opposition to a capitalist government, is not a feasible political proposition, for the success of either would mean not merely a change of policy, but a revolution. In the eighteenth century it was quite generally supposed that ordinary

political opposition meant disloyalty to the form of government and the order of society. This was why the Fathers, including Madison, distrusted factions and failed to take into account the possibility of political parties.

Once the Constitution had been put into operation, Hamilton's policies more than justified the fears of those who had opposed its adoption. Against him, and against the government, they ranged themselves in an indignant and dangerous party. It was Madison more than any other man who discovered, perhaps unconsciously, that the true method of carrying on political opposition in the United States was to do it in the name of loyalty to the document on which the government rested. It was he who invented "strict construction", and applied it to the assumption and the Bank bills long before Jefferson wrote his celebrated report. By this device he succeeded in dissociating those who opposed Hamiltonian financial policies from those who actually opposed the Constitution itself. He enlisted them under the banner of a stricter loyalty to the Constitution, and by that act the government was saved. It was a considerable accomplishment, hardly to be ranked lower than his earlier services in attaining a more perfect union.

No one supposes that the qualms of Madison or of any other politician about constitutional interpretation arose from a superstitious reverence for the written word. When no immediate interest has been at stake, statesmen have usually been chary of admitting precedents for tortured constructions of constitutional provisions, and Madison was careful to a greater degree than most. His own career nevertheless furnishes examples of the extremes of broad and strict construction. The fact is that the oscillations of parties and interests in the United States, without departing from the frame of government, have largely depended upon the possibility of rationalizing their policies into an accord with the Constitution, and the battle cries of strict and loose construction have been but the symbols of a deeper agreement in political principle. It was Madison who first demonstrated the unique mechanism by which opposition could be carried on with

vigor and even with violence, but with essential loyalty to the form of government. His device has often been useful, but in the infancy of the nation it was no less than invaluable.

Madison's ability to perform this service was greatly increased by his mild and unimpassioned nature, and his unquestioned integrity of character, which gained him the respect even of his political enemies. He was never betrayed into the hasty and extreme language which most of the Congressional leaders occasionally employed. No one could seriously suspect him of hostility to the Union, or of attempting to undermine the social order. The newspapers sometimes snarled at him, and Hamilton grieved over him, but no one seems to have hated him. Fisher Ames, most exalted of Federalists, respected him as a master of the "science" of government and as a man of honor. John Adams declared that he would have liked to appoint Madison to his administration, but that the party spirit of the Hamiltonians prevented it.

It was partly for these reasons also that he could never become the popular leader of the Republican party. Although he was originally responsible for their doctrines, and was necessarily their public champion as long as Jefferson held office in the Cabinet, the claims of the older man to priority were not to be doubted. Jefferson possessed the temperament of a political leader. He was able to formulate and embody the ideals of eighteenth century democracy, not only for the people of that age, but for generations to come. He was a great human being. Madison's scholarly caution was not calculated to arouse popular fervor, but in developing the intellectual technique of political opposition its value can scarcely be overestimated. In this work he was a pioneer.

But the task was not finished when he sought retirement in 1797. During the next three years the course of events was such that he carried out his theories to their logical conclusion, and demonstrated the furthest extent to which opposition could go, while continuing to remain within the framework of the Constitution.

## CHAPTER X

### *AT HOME—THE VIRGINIA RESOLUTIONS*

1797-1801

THE brick house in Orange County which was Madison's home stood on a slight elevation of land, from which one could look to the west and see the Blue Ridge, about twelve miles distant. It had been built about 1760, to replace an earlier wooden structure, and although an adequate dwelling for that part of Virginia, it was by no means a splendid residence. James Madison Junior \*, by virtue of being the eldest son in the days before primogeniture was abolished, was accounted the heir to the plantation, and he made his home with his parents throughout their lives, taking over gradually the direction of the farm as his father grew old. In 1783 Jefferson tried to persuade Madison and Monroe to purchase farms in Albemarle County, so that the three might settle down as close neighbors. Monroe did so, and Madison hesitated, but when his father in the next year presented him with 560 acres from the estate, he decided to remain in Orange. About 1792 he added 800 acres of good land to his personal holdings, and in 1798 he was taxed \$8.47 for 1368 acres of land in the county, valued at \$2225.60. But the entire Madison estate, over which he exercised superintendence, consisted of between three and four thousand acres, and although it was not the largest holding in the county, it was probably the most valuable.<sup>1</sup>

Jefferson once remarked to John Quincy Adams that Madison was the best farmer he knew. A small essay on Virginian planting could be written from the letters which Madison addressed to his father from Philadelphia, and other seats of political activity. He was a tireless student, and without doing much experimental work himself he kept in touch with the latest de-

\* Until the death of his father, Madison always signed himself "James Madison, Jr."

velopments by means of books. There remains a memorandum of his written in November, 1790, containing specific instructions for the overseers of his plantation.<sup>2</sup> He orders that one Mordecai Collins shall "keep the negroes supplied with meal to be kept in a barrel apart for themselves: the barrel now holding 13 pecks to be filled three times every two weeks". Collins is also "to get a plow made by Moses according to the model lately carried [?] up from Mr. Bishops. . . ." He directs that clover be planted with the oats, and "corn 5½ feet each way except in the low grounds which may be a little thicker". Irish potatoes are also to be put in, to the extent that available ground and seed will permit.

One of the destructive customs of Virginian planting was that of ploughing furrows up and down hills, which resulted in swift and disastrous soil erosion with every rain, and allowed the water to run off instead of seeping into the soil. Madison held forth against this practice in 1818; in 1790 he directed his overseers "to fallow with the large plows all the ground for oats and corn, laying off the ground in convenient parcels with horizontal outlines, particularly on the sides where there will be double open furrows: and plowing all round each parcel, instead of the common way by lands".

In 1796 he urged his father to plant potatoes, and computed from the experience of his brother-in-law Hite that as long as they were worth 1/6 per bushel the crop would bring in more than £16 per acre. Twenty-five loads of manure to the acre were required for exhausted land, and Madison wrote: "does it not deserve consideration whether you had not better apply your crop of manure to potatoes than to corn?" The problem of exhausted land in Virginia was a great one, and although Orange County was far from being the oldest part of the state, it was becoming evident that the richness of the soil would not last forever. In 1797 Madison wrote several letters to his father, recommending in the strongest terms that he plant red clover. "In a few years I am persuaded people will be as careful to sow clover as to sow wheat, or rye, and make equal sacrifices to procure the



seed. Perhaps in a view to their *permanent* interest they ought in the present state of their lands to be more so." The elder Madison was deterred by the high price of clover seed, and his son eventually had it sent down from the north.<sup>3</sup>

Tobacco he planted regularly, and depended upon its sale for the greater part of his income. James Maury, of Fredericksburg, was his agent, and when later established as United States Consul in Liverpool he continued to find a market for Madison's crop. A typical transaction is recorded in 1789, when Maury sold eight hogsheads of tobacco in Liverpool for £135.8.3½. The charge for freight was £16.1.0, for insurance, port charges and duty, £3.0.0, and when Maury's commission of eight guineas had been subtracted Madison was left with a balance of something over £107. But more of his land was in Indian corn than in tobacco, for corn was the staple diet of negroes and horses and therefore the indispensable product of a self-sufficing plantation. It exhausted the soil rapidly, as did tobacco.

No sooner had Madison retired from public life than he was elected President of the Agricultural Society of Albemarle County, and delivered them an address in 1818.<sup>4</sup> After an extremely curious dissertation proving that it would be impossible to destroy all forms of natural life not useful to man, in order to replace them by useful forms, he continued in more practical vein, and listed some of the chief errors of Virginian husbandry. The most disastrous practice he considered to be that of exhausting the fertility of the soil, and then expending labor upon tracts which would not yield a profitable return. The earlier inhabitants had found it cheaper and easier to move onto new land when the old had been used up, but this had become impossible owing to the growth of population. Other methods must be tried. Any system, said he, which makes a rich farm poor, or does not make a poor farm rich, is a bad system, and he proceeded to discuss methods of maintaining and increasing the productivity of land. Jethro Tull's theory that pulverisation of the soil without fertilization was sufficient he rejected. Gypsum and lime, he conjectured, probably counteracted injurious prop-

erties in the earth, or mysteriously stimulated plants to greater activity, but unless accompanied by manuring would eventually result only in a swifter exhaustion of the soil. His own theory was that there must be returned to the earth, if possible, the entire weight of the plants which had sprung from it, thus replacing in the soil everything which had been taken from it. Planters had been accustomed to plough under the stalks of their tobacco crops, with excellent results, and Madison recommended that the stalks of Indian corn be chopped into small pieces, "passed through animals", and spread back upon the land whence they came. For it appeared that the fields devoted to this crop had received least attention, and become most impoverished.

In this speech he also made a striking appeal against the demolishing of the forests for firewood, begging the planters to cherish their trees more carefully, plant new ones, and avoid waste. His computations indicated that every fireplace on a farm would require ten acres of woodland for a permanent supply of fuel.

Madison insisted that deep ploughing was necessary, and he shared Jefferson's enthusiasm in the development of a more scientific instrument. In 1793 he procured, through Jefferson, one of Dr. Logan's new ploughs, and wrote enthusiastically of it. Tull's horse-hoeing one he considered too delicate for the rough and stumpy ground of Virginia, and too complicated for the intelligence of the negro laborers. In 1798 he built a threshing machine on a new and improved plan, which pleased him so greatly that he summoned Jefferson for a special visit to admire it. He was as ardent a reader of pamphlets on husbandry as of pamphlets on politics, but he never engaged in the expensive and unprofitable experiments which helped to destroy the fortune of Jefferson. It was doubtless his caution as well as his skill which enabled him to live comfortably on the proceeds of his plantation long after Monroe and Jefferson had hopelessly failed. Yet the trend of economic development was against him,

and when he died in 1836 his fortunes were progressing rapidly downward.

The memorandum of 1790 directs Collins "to treat the negroes with all the humanity & kindness consistent with their necessary subordination and work". On the question of slavery Madison's thoughts were those of the average intelligent Virginian of his time. It was a major tragedy, in which each of them was involved through no fault of his own. He considered it a moral and economic evil and spent much of the later years of his life in encouraging the emigration society, which proposed to transport the blacks gradually back to Africa. It is related that he quoted with approval the remark attributed to John Randolph, that "if the slaves did not run away from their masters, assuredly the masters would have to run away from their slaves". While in Philadelphia in 1783 Madison's black servant "Billey" ran away and was recaptured. Madison felt that the boy could not be returned to Virginia. "The laws here do not admit of his being sold for more than 7 years. I do not expect to get near the worth of him; but cannot think of punishing him by transportation merely for coveting that liberty for which we have paid the price of so much blood, and have proclaimed so often to be the right, & worthy the pursuit, of every human being." It was only towards the end of Madison's life that eminent Southerners began to defend the principle of negro slavery, in answer to the militancy of Garrison in the North. Apparently this controversy never penetrated to his consciousness, and he died in the sincere belief that slavery was wrong and that it would disappear naturally in time.

When the Madisons arrived in Orange early in 1797, they were full of projects for rebuilding the house upon a more ample scale. In January, 1796, he had sold his lands on the Mohawk, realising something over five thousand dollars. Part of this he invested in a mill near his home, and probably much of the remainder went into the construction of the mansion which still stands, and which, with the estate, is known as "Montpelier".

He had commissioned Monroe to procure for him in France various household articles of especial excellence, nails were bought from Jefferson's famous "nailory", and throughout 1798 the carpenters and masons were busy. In December, though still "in a vortex of house building", the plan approached completion, and the family moved in. The last shipment ordered from Monroe included "two table cloths for a dining-room of about 18 feet; two, three, or four, as may be convenient, for a more limited scale; four dozen napkins, which will not in the least be objectionable for having been used, and two mattresses". In return for the favor of furnishing these from his own stock of imported goods, Madison sent Monroe some potatoes, and Mrs. Madison added some pickles and preserves for Mrs. Monroe. Jefferson contributed advice on the best kind of protective plaster for the bricks of the portico. Madison's house was now one of the most luxurious in western Virginia, but in 1809 he still further enlarged it, this time with the assistance of the architect of the Capitol, Latrobe. Perhaps the inspiration of this increasing magnificence may be traced to his wife, but in any case the family had advanced a good way from their provincial distinction of 1775.

## 2

Amid these rustic pursuits Madison was able for a short time to contemplate national politics without bitterness. But he was not long left in peace. The relations of the United States with France soon became fully as hostile as they had formerly been with England. The French preyed upon American commerce, and they refused to receive Thomas Pinckney, appointed as minister to succeed Monroe. In Italy a new star was rising, and Madison's successor in the House of Representatives wrote him an interesting prophecy on June 4, 1797. "The accounts from Europe abound with late & brilliant successes of that wonderful man Bounaparte. He has entirely defeated the Grand Duke—he has already crossed 'the valley of hell'—he has fought above

the clouds, & I believe nothing less than the arm of the omnipotent will prevent his storming heaven—his success may save us, by restoring peace to Europe".<sup>5</sup>

Adams called a special session of Congress, and his party hesitated between ideas of war and of negotiation. The latter eventually prevailed, and Marshall, Charles Cotesworth Pinckney, and Gerry were sent on a special mission. There was talk of sending Madison instead of Gerry, and Hamilton favored the project, but the party leaders objected. He would certainly have refused the mission.

The adventures of the three negotiators with Talleyrand and the Directory have often been described. Talleyrand sent emissaries to the Americans, requesting a bribe, and was haughtily refused. Marshall and Pinckney returned to the United States, their papers were published, with the names of Talleyrand's representatives disguised as X, Y, and Z, and the country fell into a state of belligerent hysteria. A navy and an army were created, or at least begun, the Alien and Sedition acts were passed, of which more must be said, and the voice of the Republicans was scarcely heard amidst the warlike roars of the Federalists.

Madison heard of the X Y Z papers early in April, 1798, and his reaction was one of complete astonishment. He had met Talleyrand while that devious man was hiding in the United States. The name of Talleyrand was, and is, a synonym for astuteness, duplicity, and infidelity, but scarcely for muddle-headedness. "The conduct of Talleyrand," wrote Madison, "is so extraordinary as to be scarcely credible. I do not allude to its depravity, which, however heinous, is not without examples. Its unparalleled stupidity is what fills one with astonishment. . . . If the evidence be not perfectly conclusive, of which I cannot judge, the decision ought to be agst the evidence rather than on the side of the infatuation." This stupidity lay in Talleyrand's failure to realize that his proposition would be published by the ambassadors, and would be seized upon with grateful hearts by the party in power as a pretext for war. It did not

occur to Madison that the French might be less than anxious for friendly relations with the United States. He preferred to believe, with the other Republican leaders, that the X Y Z transactions were unauthorized by the French government and were no more than a "swindling experiment", as Monroe put it.

Madison's prevailing political feeling throughout the following months was one of excessive rancor toward John Adams. He called him headlong, "kindled into flame by every spark that lights on his passions," "a perfect Quixotte as a statesman." When Adams made a bellicose speech to a crowd of the young men of Philadelphia, Madison described his language as "the most abominable & degrading that could fall from the lips of the first magistrate of an independent people, & particularly from a Revolutionary patriot". He felt that the President had shown no sincere desire for reaching an accommodation with France, but had rather provoked her by the extreme belligerence of his manifestoes and policies.

Madison did Adams an injustice. Gerry had remained in France, and his reports, together with those from other sources, indicated that Talleyrand was actually desirous of coming to terms. Eventually the President, directly contradicting the wishes of his party leaders, and totally disproving Madison's expressed belief that he was a "puppet" in the hands of Hamilton, sent a new mission to France, which negotiated a treaty. His decision was one of those which wrecked the Federalist party, but it has done more than any other act to increase his reputation in modern times. It is unfortunate that the few scattered letters of Madison's which remain from the year 1799 do not indicate any sweetening of his political temper. Feeling ran higher in that year than at any previous time since the adoption of the Constitution, and matters other than foreign policy contributed to keep the Republicans in a state of exasperation.

No one can say with certainty whether the Republicans were right in their conviction that France was fundamentally friendly to the United States. Some have asserted that it was the Federalist readiness for war which persuaded Talleyrand to back

down. Others argue that changes in the European situation, entirely unconnected with American affairs, made it necessary for the French to moderate their policies in 1799. John Adams and the Republicans should at least be given credit for maintaining an attitude of neutrality, and using every resource to avoid war. If this had been a good policy in 1794 when troubles arose with England, it is inconsistent to argue that it was a bad policy in 1798 when the dispute was with France. But, whatever the true nature of the forces directing events, it cannot be said that Madison showed any profound grasp of them. From his retirement he appeared to see only the domestic situation, and the iniquities of Adams. Before another ten years had passed he had tragic occasion to give European problems more thorough study, and one is again forced to the conclusion that he lacked a capacity to understand them. When political transactions passed from the realms of law and logic into those of blind and brutal force, Madison's scholarly and bookish nature unfitted him to pursue them.

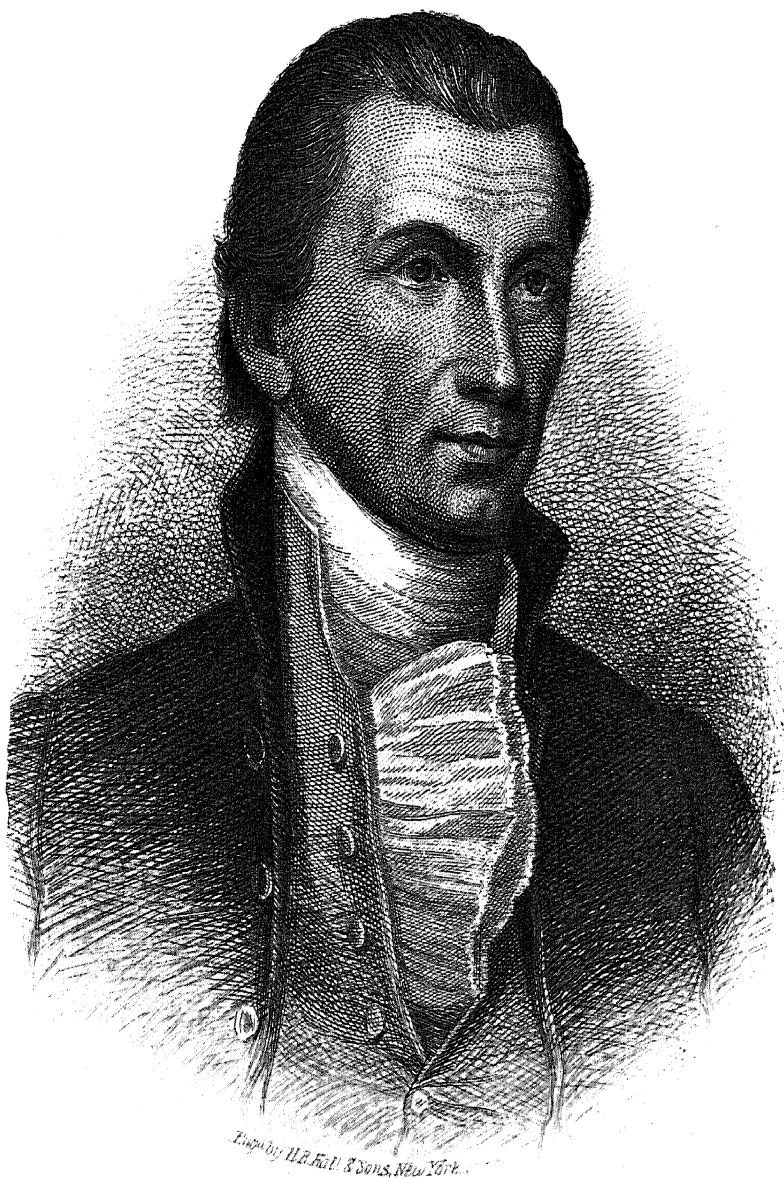
Meanwhile, the Alien and Sedition Acts, which had been passed in June, 1798, had stirred the country to an extraordinary display of political feeling. By the former law the President was given power to deport any alien whom he should judge to be dangerous to the country. The Sedition Act, in its most extreme clause, declared that the writing, printing, or publishing of any false, scandalous and malicious writings against the government, Congress, or the President, with intent to defame or bring any of them into disrepute, might be punished, on conviction before a federal court, by a fine not exceeding \$2000, and imprisonment not exceeding two years. In effect this sweeping law made political opposition a crime. Some of the ablest members of the Federalist party, such as John Marshall, disapproved of the acts, and Hamilton himself wrote words of warning against them. But they were put through by an uncompromising majority, and afterwards upheld by the federal judiciary. Their appearance and subsequent enforcement marked the highest point of Federalist supremacy, and seemed to the

Republicans to demonstrate the existence of an almost unbridled political tyranny. In fact they menaced the very life of the Opposition.

Against such extreme measures, the strongest possible methods of protest seemed to be required. Actual physical resistance, though contemplated by some, never took place, but in the famous Virginia Resolutions Madison took occasion to demonstrate the ultimate resources of opposition within the framework of the Constitution. Although somewhat similar resolutions were drawn up first in Kentucky, Madison composed his without knowledge of them, and had them introduced into the legislature of Virginia by John Taylor of Caroline in the autumn of 1798.

There were in all eight sections to Madison's draft. After affirming a warm attachment to the Union and to the Constitution, it was declared in the third section that the powers of the Federal government were viewed as resulting from "the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States, who are parties thereto, have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them." The fourth section regretted that a spirit had been manifested by the Federal government to enlarge its powers by forced constructions of the Constitution, to destroy the effect of the enumeration of powers in that instrument, and so to consolidate the states into one sovereignty, which would inevitably lead to monarchy. The fifth section protested specifically against the Alien and Sedition Acts. The sixth denounced the invasion of the right of freedom of speech and of the press. The seventh appealed to the other states, "in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts afore-





JAMES MONROE



said are unconstitutional; and that the necessary and proper measures will be taken by each for co-operating with this State, in maintaining unimpaired the authorities, rights, and liberties reserved to the States respectively, or to the people". The eighth directed the Governor to send a copy of the Resolutions to the Executives of the other states, with a request that they might be communicated to the legislatures.

Immediately after the adoption of these Resolutions by the Virginia legislature, others were passed, deploring the aggressions of foreign nations on American commerce, but deprecating war for any purpose other than to repel invasion.

In February, 1799, the Republican members of Congress from Virginia wrote a joint letter to Madison, begging him, in view of the solemn and dangerous state of affairs, to stand for election to the State legislature. He consented, and became a member of that body for the session of 1799-1800. Meanwhile the states of Delaware, Rhode Island, Massachusetts, New York, Connecticut, New Hampshire and Vermont replied to the Virginia Resolutions, expressing vigorous dissent. Accordingly, a committee was appointed in the Virginia legislature of the autumn of 1799, and for it Madison drew up a very lengthy report on the Resolutions, explaining and justifying them. The Legislature adopted this report, with minor changes, and reaffirmed the doctrine of the Resolutions. With this the whole matter closed, for Adams never exercised his powers under the Alien Act, while the persecutions carried on under the Sedition Act materially assisted the rise of popular sentiment which elected Republicans to office in 1800.

The true meaning of the Resolutions was simple enough, and had they not been overlaid with subsequent theory would have remained simple. The third resolution was designed to refute the contention that the Supreme Court was the sole and final judge of the constitutionality of laws. To that end it recalled to memory the fact that the Federal Government and the Supreme Court itself had been created by compact among the people of the several states, and that if the people of the several states

felt that the government was dangerously exceeding the limits which had been assigned to it they had a perfect right to say so, and to take steps calculated to remedy the evil. The Virginians then recorded themselves as feeling that in the case of the Alien and Sedition Acts the Federal government was dangerously exceeding its assigned powers, and they appealed to the people of the other states for concurrence in declaring that the acts were unconstitutional, and in taking steps to maintain "the authorities, rights, and liberties reserved to the States respectively, or to the people".

Thirty years after the date of the Virginia Resolutions the state of South Carolina became discontented with the federal tariff, and proclaimed in its own behalf the doctrine known as Nullification. According to this theory each individual state had the right to judge of the constitutionality of acts of Congress, and if a state should decide an act to be unconstitutional it had the right to prevent its enforcement within the borders of the state, that is, to nullify the law. A few years later South Carolina actually nullified the tariff, and was forcibly called to order by Andrew Jackson. The logical foundation of their doctrine was complicated, and in fact strangely philosophical, but it depended mainly upon two theses: that the Constitution was a compact between sovereign states, and that sovereignty was indivisible, and hence remained entirely in the state governments. This was the theory of state sovereignty, which was quite different from that of states' rights. For the first of these theses, and for the general support of their policy, the men of South Carolina appealed to the Virginia Resolutions as a precedent, and they started a habit of argument concerning the nature of the Union which became tedious and tragic, and ended only with the Civil War.

Madison lived to see the Nullification movement, and it clouded the last years of his life, while he patiently worked his old and rheumatic fingers in the composition of many letters protesting the absurdity of the doctrine and denouncing the attempt to trace its pedigree to his Resolutions. Historians have differed

in their estimate of his contention, but the tendency has been to father the "compact theory" on him, and to consider that he himself invented nullification in 1798. The question turns upon what he meant by the words describing the Constitution as a "compact to which the States are parties", and upon what action he expected would be taken against the Alien and Sedition Acts as a result of his protest.

To the men of 1830 the word "compact" meant a kind of loose agreement from which the parties might withdraw at will. This fitted their contentions about sovereignty, for if the Constitution was a compact, there could be no pretence of sovereignty in the Federal government, and it remained with the states. But to Madison and to the men of 1798, the word carried a different connotation. It was a technical term of the Lockean political philosophy, and signified the basis upon which all government rested, according to that philosophy. If Madison had wished to express the later notion of "compact" he would have used the word "league", which he had already distinguished from a constitution by defining it as an association from which parties might withdraw when any other party violated any one provision of the league. The purpose of ratifying the compact not by the state legislatures but by the people of the states was to make it not a treaty, or league, but a constitution, creating a government with sovereign powers. He had explained this in the Constitutional Convention and in *The Federalist*, and he never changed his mind. As for his declaration that the states were the parties to the Constitutional compact, although it may not have agreed with the theories of Daniel Webster, it nevertheless merely repeated what Madison had said in the 39th number of *The Federalist*. He had then put it in these words: "It appears . . . that the Constitution is to be founded on the assent and ratification of the people of America . . . but . . . that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States,

derived from the supreme authority in each State,—the authority of the people themselves. . . . Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a *federal*, and not a *national*, constitution.”

Madison was unable to understand the metaphysical notion that sovereignty could not be divided. When it arose, he met it with the empirical statement that in the government of the United States sovereignty *had been divided*.

But Nullification means not merely that a state declare a law unconstitutional, but that on a basis of that declaration it proceed to ignore or disobey the law. That no such thing was contemplated by the Virginia Resolutions is made perfectly clear in a striking passage of Madison's Report: “Nor can the declarations of either [legislatures or private citizens], whether affirming or denying the constitutionality of measures of the Federal Government, or whether made before or after judicial decisions thereon, be deemed, in any point of view, an assumption of the office of the judge. The declarations in such cases are expressions of opinion, unaccompanied with any other effect than what they may produce on opinion by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force. The former may lead to a change in the legislative expression of the general will—possibly, to a change in the opinion of the judiciary; the latter enforces the general will, whilst that will and that opinion continue unchanged.” \* The legislature of Virginia was merely expressing its opinion, and asking other states for theirs. Should a sufficient weight of feeling be against the acts, a change of representatives might take place, or a constitutional amendment be passed, ending the difficulty. As a matter of fact, the elections registered a complete change of party, and Madison always felt with satisfaction that this was a genuine expression of popular sentiment,

\* The last sentence quoted is the only important instance in Madison's writings, so far as I know, of a use of political ideas apparently derived from Rousseau.

which had in some measure been encouraged by the Resolutions of Virginia.

The historical career of these Resolutions was in some respects similar to that of Magna Carta. That document, drawn up for a specific purpose, was forgotten after a few reigns, and then resurrected in the 17th century to fortify a party which discovered in it, among other things, a guarantee of trial by jury. There was no such guarantee in the Charter, which if anything sought to overthrow such notions, but since men thought it was there, Magna Carta gave weight to the doctrine of jury trial. In the same way, the Virginia Resolutions were resurrected by a party in 1828, a theory of nullification was erroneously discovered in them, and consequently did derive some weight from those Resolutions, however valiantly Madison fought to prevent it. In reality Nullification was an entirely new doctrine, based upon conceptions of the nature of sovereignty and of the meaning of the word "compact" which were strange to the men of 1798.

It has been pointed out that in these Resolutions Madison carried to its logical conclusion his system of opposition within the framework of the Constitution. Beyond his policy of 1798 there lay only forcible resistance. In 1825, inspired by some of the decisions of John Marshall, he wrote something on this subject to Thomas Ritchie, and often repeated the points which he made. Governments, said he, might assume unwarranted power either in opposition to the will of the majority of the people, or with their consent. For defence against the first situation, "nothing is necessary but to rouse the attention of the people, and a remedy ensues thro' the forms of the Constitution. This was seen when the Constitution was violated by the Alien and Sedition Acts." "In the second case, the appeal can only be made to the recollections, the reason, and the conciliatory spirit of the Majority of the people agst their own errors; with a persevering hope of success, and an eventual acquiescence in disappointment unless indeed oppression should reach an extremity overruling all other considerations." If oppression should reach this

extremity, he makes clear in another place, the final appeal is to a dissolution of the bonds of government. But this, he is careful to say, is not a *constitutional*, but a *natural* right. This is, in fact, the true Madisonian doctrine of nullification. He would perhaps have said that the Southern States in 1861 were exerting not their constitutional right of secession, for they had none, but their natural right of revolution.

It is impossible to discover any serious idea of forcible resistance or secession in Virginia during 1798 and 1799. The report that an army had been collected and an armory built for that purpose has been proved false. Public opinion, on the whole, was in favor of the Resolutions, although there were strong dissentients in the legislature, and in the subsequent elections Federalists won more than one-third of the Congressional seats. Bishop James Madison wrote his namesake a letter which was loud in its praises of the Resolutions and the Report. "You have really swept the Augean Stable; at least you have cleansed the Constitution from that Filth which ambition, avarice & Ignorance were heaping up around it". From Kentucky Hubbard Taylor wrote in January, 1799: "Never were people more united in sentiments than they are in this state, respecting the measures of the Gen<sup>l</sup> Gov<sup>t</sup>. I flatter myself they will be prudent, firm & persevering, for the preservation of the Union, through the medium of the Constitution, to which we mean to cling with principled fidelity".<sup>7</sup> Once again a party which might well have shown violent discontent with the very basis of federal government had been moulded by Madison into one professing a stricter and higher loyalty to the Constitution. His habitual choice of the issue of constitutionality on which to fight all major political battles sometimes appears tiresome and even superficial. It was perhaps not altogether happy, for it tended to encourage an undue narrowing of the functions of the federal authority. Nevertheless, it was by this means that Madison, more than any other man in the early history of the nation, inculcated a general feeling of veneration for the Constitution. He



taught those out of power, as Hamilton taught those in power, to look to that document for the protection of their interests.

Meanwhile the Federalist party began to show signs of collapse. The unpopularity of the Sedition law, the gulf which was set between Adams and Hamilton, and the peace with France produced a situation in which few leaders of the party expected success in the elections. The party of Jefferson, on the other hand, was rounding into shape as a highly effective political machine. In Virginia John Taylor and Madison invented a new electoral law which was rather more useful than it was creditable. Hitherto it had been the custom to vote separately in each district for Presidential electors. Perceiving that this would result in the choice of several Federalists, the Republican leaders contrived a "General Ticket" system, by which the voters of the entire state cast their ballots for one or the other of two complete lists of electors. It was beyond doubt that the state as a whole would vote Republican, and the result would therefore be that the total electoral vote of Virginia would be for Jefferson. The Federalists grumbled, as well they might, but the law went through, and was imitated in several other states, in some cases by the Federalists.

The campaign in its popular aspect was a diverting affair, full of scurrility, mutual abuse and excitement, but the noise and heat of battle passed by Madison, and he appears to have taken little active part in the campaign. His only effective interference was based on a misunderstanding, and almost resulted in disaster. As a result of Aaron Burr's superb management of the New York Republican machine, the northern Republicans insisted that he be given second place on the national ticket. This was not especially agreeable to Jefferson and Madison, but they perforce kept silent. The northerners feared that they could not trust the southerners to cast their second votes for Burr, while the southerners, on the other hand, were afraid that unless they dropped a few electoral votes there would be a tie, and the election would be thrown into the House of Representatives. Burr's

son-in-law, Alston, appeared in Virginia, visited Madison, and apparently assured him that enough northern votes would be thrown away to make certain the election of Jefferson. At any rate Madison received this information from some confidential friend of Burr, and acting upon it, persuaded George Wythe that all the Virginian votes should be given to Burr as well as to Jefferson.<sup>8</sup>

Madison was an elector himself, journeying to Richmond for the purpose of casting his vote. When the returns were in it was plain that the fears of Wythe had been well-founded, for there was a tie between Jefferson and Burr, and the final choice rested with the House of Representatives. In that body, moreover, there was a cabal among the Federalists to give the Presidency to Burr, in defiance of the known will of the people. The long and dramatic voting in the House only ended when a few repentant Federalists were prevailed upon to cast blank ballots, and Jefferson was declared elected President, with Burr Vice-President. On the 4th of March, 1801, the inauguration took place amid great demonstrations of popular enthusiasm.

Madison was not in Washington for this festive occasion. Jefferson had long since asked him to be Secretary of State in the new administration, and had suggested that he come to Washington during the month of February. But though Madison agreed to serve in the Cabinet, he felt that it would be in bad taste for him to appear on the scene before the election had been decided, and he sat at home suffering with rheumatism, "trusting for a remedy to temperance and flannel". In the middle of February, while the interminable balloting was going on in the House of Representatives, the elder Madison fell ill, and on the 27th, "rather suddenly, tho' very gently the flame of life went out". A good many years before, he had made a will, since which time two of his sons had died, leaving numerous children, and considerable additions to the family property had been made. Consequently the Secretary of State was obliged to remain at home, grieving for his father, and setting about the tedious business of executing the provisions of the will. It was a difficult

process, involving a lawsuit. Not until April was the matter sufficiently well in hand to permit him to start for Washington, and he was further delayed by a serious illness of his own. Finally, on May 2, he was duly sworn in, and took up his new duties. His career of opposition was over.

## CHAPTER XI

### *SECRETARY OF STATE*

1801-1809

IT was just under ten years since Madison, with Washington and Jefferson, had been present when a small company met at the Fountain Inn, near the foot of what is now Wisconsin Avenue, for the first sale of lots in the new capital city.<sup>1</sup> The locality was familiar to him, for he had frequently stopped at Georgetown, Alexandria or Mount Vernon on his journeys northward, and doubtless he had followed, on occasional visits, the progress made in the construction of new buildings. He had been consulted by Washington and Jefferson when the plans were being drawn up, and one of the inhabitants of the District, Daniel Carroll, favored him from time to time with accounts of the city's development. But he was not one of those most concerned in the venture. He purchased no lot, and his letters reveal no great interest in the seat of government, once its situation had been established.

The plan upon which the city was to be constructed was appropriate to the capital of a great and wealthy nation, and as such it did honor to the patriotic faith of its contrivers. But its vast extent could not possibly be built up with houses, nor even made more than tolerably habitable, for many years. When the Madisons arrived in the spring of 1801 they found a city consisting mainly of swamp and forest. On a hill at the east end of the town rose the north wing of the new Capitol Building. Foundations for the central portion and dome had been laid, and the walls of the south wing were just beginning to appear. The House of Representatives met at first in the western portion of the north wing, and later retired to a brick structure irreverently known as the "Oven" which was built on part of the site of the south wing. Not until 1807 was their permanent hall completed,

and the central part of the building was still unfinished when burnt by the British in 1814.

Round about the Capitol buildings had been hastily put up for the accommodation of members of the government. President Washington had built some houses on the site of the present Senate Office Building, and old inhabitants of the district had done their best to deal with the influx of guests. Of the boarding-houses, the most famous was Conrad's, where Jefferson lived during his last session as Vice-President. This was a house which the wealthy Mr. Thomas Law had erected for his own use, but had turned over to Conrad so that the newly-arriving legislators might not have to live in tents. There were other boarding-houses in the vicinity, and Mr. Samuel Harrison Smith established the offices of the *National Intelligencer* at this end of the town. Nearby, on New Jersey Avenue, was Christ Church, a small frame structure that had once been a tobacco house, and here services were held each Sunday. The unmolested country pressed closely in upon this little settlement.

"Conrad's boarding house," wrote Mrs. S. H. Smith in 1837, "was on the south side of Capitol Hill and commanded an extensive and beautiful view. It was on the top of the hill, the precipitous sides of which were covered with grass, shrubs, and trees in their wild uncultivated state. Between the foot of the hill and the broad Potomac extended a wide plain, through which the Tiber wound its way. . . . Its banks were shaded with tall and umbrageous forest trees of every variety, among which the superb Tulep-Poplar rose conspicuous; the magnolia, the azalia, the hawthorn, the wild-rose and many other indigenous shrubs grew beneath their shade, while violets, anemonies and a thousand other sweet wood-flowers found shelter among their roots."<sup>2</sup> In the charitable memory of Mrs. Smith, the whole "wide plain" stretching to the Potomac presented the appearance of a beautiful park, and she recalled with pleasure the rambles which used to divert those early days.

Agreeable as this rustic scene was to the aesthetic sense, it

was singularly unsuitable for the transaction of governmental business. Separated from the Capitol by a mile of wilderness, there arose the unfinished President's House, surrounded by the offices of the Executive Departments. Pennsylvania Avenue traversed a morass, and the legislator who remained too late at a convivial dinner in the west end of Washington might find himself lost in the forest, and wander helplessly until morning, or until rescued by a search party. After John Adams read his last message to Congress, the members were at a loss for some means of proceeding in a body to the White House with their answer, and only the fortunate appearance of some stout hackney coaches from Baltimore rescued them from the necessity of making the long journey on foot, "like the skirmishing party of an army". Nevertheless the western end of the town grew more rapidly than the eastern, perhaps because it was nearer to the metropolis of Georgetown. F Street, between 13th and 15th streets, was soon built up, and a straggling settlement pushed out all the way to Georgetown. There were several hotels, two churches, and the post office in this region. The supply of churches, it would appear, was insufficient, for the rector of Christ Church began in May, 1801, to hold services each Sunday afternoon in the corridor of the new war office.

The Madisons stayed for a short time with Jefferson in the White House, and Federalist newspapers seized the opportunity to accuse the President of taking in boarders, but they soon moved to a house on M Street, near 32nd, next door to Albert Gallatin. This remote location did not long please the Secretary of State and his wife, who had rather extensive social ambitions. They considered a house belonging to Dr. Thornton, the original designer of the Capitol and later head of the Patent Office, but found it too small, and eventually took the one next door, which belonged to a certain Nicholas Voss and rented for \$600. a year. It was located on the site of 1333-1335 F Street, convenient to the offices of the State Department, and in the midst of the most populous part of town. A stable for four horses was put up by Voss, together with a carriage house, and the Madisons moved

in when they returned to Washington in the autumn of 1801.<sup>3</sup> Before long they had achieved some reputation for hospitality, and since Jefferson was a widower the wife of the Secretary of State became first lady of a society which was not without charm, though scorned by Federalists who had rejoiced among the merchants of Philadelphia. Mrs. Smith has left engaging accounts of the festivities of the time. She became greatly attached to Dolly Madison, and even found a place in her affections for James, whose benevolence and mildness, she thought, could scarcely fail to make friends.

It is certain that the triumph of Republicanism did not raise the social tone at the seat of government, though there is no reason to believe that it lowered it. Honest landowners, excellent as their politics and morals might be, were sometimes uncomfortable in drawing-rooms. Mrs. Smith tells of the mystification of two venerable Senators who, coming to drink tea with her, were so astonished at the sight and sound of a "forte pianno", that they could talk of nothing else. One of these same senators walked up to the French minister, General Turreau in the Senate Chamber, "surveyed him from head to foot, lifted up the flaps of his coat all covered with gold embroidery, asked him the use of the gold tassels on his boots, what was such a thing and such a thing and how much it all might cost, all of which the general very good humourdly answered". In contrast was the sophistication of a certain beautiful American, the wife of a foreigner. She had adopted some of the fashions of the French Directory, and Republican Washington was scandalized at the sight of "an almost naked woman". Mrs. Robert Smith, wife of the Secretary of the Navy, gave a party for her, and she came in such scanty attire that no one dared to look at her "but by stealth", while an admiring throng assembled outside the house to catch a glimpse through the windows. Next evening she was expected at another gathering, and several worthy women of Washington sent word that if she wished to meet them she must wear more clothes.<sup>4</sup>

On New Year's Day each year it was customary for members

of Congress, heads of departments, gentlemen of distinction and their wives to call on the President with the compliments of the season. A general celebration was also held on the Fourth of July, but this was apt to be a more democratic affair, when high and low mingled in uncomfortably crowded festivities. In a city lacking theaters, clubs, parks, and such places of public amusement and display, practically the only resource of society was in dinners, teas, receptions, and formal calls. The Houses of Congress became something of a resort for the fashionable, and it was not long before a popular lawyer, such as William Pinkney, addressing the Supreme Court, would attract a crowd of enraptured ladies. During several seasons, Sunday services were held in the hall of the House of Representatives, but these appear to have been less for the worship of God than for the display of society.

Perhaps the most impressive member of the diplomatic corps was the Spanish minister, the Marquis of Casa Yrujo, a man long resident in the United States, who had married Sally McKean, daughter of a Republican governor of Pennsylvania. Dolly Madison was an affectionate friend of the Marchioness, and remained so even after Madison had, in the course of official wranglings, driven her husband out of Washington. General Turreau, French minister during a great part of Jefferson's administrations, and successor to the agreeable Pichon, was an amiable man in society, though of low origin, and a soldier at heart. He created no small scandal by beating his wife, with such violence upon one occasion that a loyal secretary of legation was obliged to close the windows and play furiously on the French horn, to drown the noise of her cries. But it was admitted that the General was much provoked, for his wife had been a servant-girl, whom he had married because she had saved his life during the Revolution, and it was said that she generally hit him first. The English minister, Anthony Merry, was of a peevish disposition, and was chiefly distinguished for his resentment of the informality of Jefferson's social behavior, and for making an international incident out of the fact that his wife and him-



self were not given precedence at the presidential dinner-table. His successor, David Erskine, was better liked.

Most extraordinary of all the ministers was Soliman Melle-melli, the Tunisian "Ambassador", who spent the winter of 1805-1806 in Washington. He was about fifty years old, wore an enormous turban and strange scarlet clothes, smoked a pipe four feet long, took snuff from an "elegant gold dimond snuff box", and lived in a room perfumed with the essence of roses. Robert Smith once called to find him on the floor in the midst of his devotions, which he duly finished without suffering the Secretary to depart. He discussed religion with the Osage Indians, and claimed them as brothers of the Arabs. He visited Congress in state, remarked in a puzzled way that "if each Representative has a right to debate on each question it will require a year to come to a result", and to the pain of the Senators was quite unable to distinguish between a legislative and a judicial assembly. The government was much embarrassed by his presence, for they had to hire a hotel for him and his numerous suite, provide a corporal's guard to protect him from the admiring populace, and, if William Plumer may be believed, even supply him with concubines. Eventually he was conducted on a tour designed to impress him with the wealth and strength of the United States, and then sent home in some splendor.<sup>5</sup>

For two months each summer the President and his Cabinet retired to their homes. "I consider it," wrote Jefferson, "a trying experiment for a person from the mountains to pass the two bilious months on the tide-water. I have not done it these forty years, and nothing should induce me to do it." Madison's delicate health was especially susceptible to a "bilious" climate, and on the occasions when he was forced to remain in Washington during August he usually paid for it with a period of illness. From the end of July, then, to the end of September, communications between the members of the Cabinet were made by letter. A special post service was set up between Washington, Orange and Monticello: the important papers arriving at the Department of State were sent by the permanent officials to

Madison, and usually forwarded by him to Jefferson. As the two friends often visited each other, during the course of the summer, the letters which passed between them rarely contained more than mere formalities. When an important question had to be discussed, it was made the occasion for one of these foregatherings, and this fact, added to the close agreement in the thoughts and feelings of the two men, makes it practically impossible to distinguish Madison's individual contribution to the policies of the government.

Although the two Virginians were popularly supposed to be the guiding spirits of Republicanism, their peculiar talents were complemented in an indispensable manner by those of the Secretary of the Treasury, Albert Gallatin. A Genevan by birth, Gallatin had come to the United States while a young man, and had established himself in western Pennsylvania. He had long been distinguished as a zealous Republican, and had played an important part in the Congressional debates on Jay's Treaty. But great as were his services in the legislature, his special value lay in his financial skill. No other person in the party, nor probably in the country, was as capable of carrying on the work of Hamilton's department with the changes which Republican ideals and theories required. He came into office with a determination to pay off the national debt as rapidly as possible, to use the strictest economy in governmental expenditures, and to bring all such expenditures under a more exact control by Congress. He refused to surrender these convictions, and declared that he would invent no methods of juggling the books or manipulating the funds to give a false impression of governmental prosperity. In an administration whose original principle was that of resistance to Hamiltonian fiscal policy, it was impossible to overestimate the importance of such a man, whose presence forbade all possibility of charlatanry in the natural reaction from Hamilton's schemes.

For eight years these three men directed the government. The phrase is, actually, a curious one, and would perhaps have been resented by Madison, especially if he could have known in 1794

or 1795 that such words would aptly describe the career of his own party. The Republicans had come into office with a tremendous majority, the Federalists had practically collapsed. The ideals of the new regime were clear: reduction of the debt, reduction of taxes, reduction of the fighting forces, freeing of the judiciary from partisanship, and a general loosening of the reins of government. Yet there was another ideal, less avowed after 1801: a reduction in the influence of the Executive upon the government. The vitality and power of the Federalist administrations had come from the Executive, especially from Hamilton, even though there were men of great ability in Congress, and this dominance of the Secretary of the Treasury had been correctly believed by the opposition to be a step towards the assimilation of the government to the form and spirit of the British monarchy. Yet the influence of Jefferson upon Congress was no less than that of Hamilton. His party was as sternly disciplined in the name of liberty as the Federalists had been in the name of energy, and it was no consolation to the opposition that Jefferson's control was more subtle and skillful than Hamilton's. In fact, the American government had already left the Constitution behind, though adhering to its verbal precepts.

Jefferson's real troubles at first were not with the government of the nation, but with the government of his party. The distribution of offices, which was done with the advice and approval of Madison and Gallatin, not only outraged Federalists who lost their jobs, but disappointed one wing of the Republicans, who thought that the redistribution of spoils was not carried far enough. The Vice-President, Aaron Burr, was considered untrustworthy despite his services, was deprived of patronage and cast into outer darkness, leaving the Secretary of State clearly heir-apparent to the Presidency. By his subsequent intrigues, Burr entirely justified the opinion which the Virginians had of him, but the problem which he presented in 1801 was not one of morals, but of party politics. In Congress, Jefferson was not nearly as well served as Hamilton had been. John Randolph, in the House, was the only leader of real talent, but after doing ex-

cellent service for four years he could bear subordination no longer, and became a violent opponent of the administration. William B. Giles, in the Senate, was more dependable, but eventually deserted Madison in time of need. General Samuel Smith of Baltimore, a powerful politician with a brother in the Cabinet as Secretary of the Navy, finally broke with Gallatin, and joined the insurgent, job-hunting Republicans of Pennsylvania in creating endless troubles for the President. All these clashing "factions" were handled with skill and success by Jefferson, who had a flair for such work which was unfortunately lacking in his successor.

When the United States government had been set up, the duties and functions of the Department of State had not been clearly defined. It was to handle foreign affairs, but these were not expected to be very complicated, and hence the residue of Executive business not falling to the share of the War and Treasury Departments was handed over to it. Jefferson had expected domestic concerns to outweigh by far his duties in foreign affairs, but the course of international politics had been such as to require practically the full attention of the Secretary, and Madison in particular found himself with little time for other things, for in the whole history of the nation there have been only two other periods of comparable importance in its foreign relations. Yet it had been a cherished principle of Republicanism that the diplomacy of the government should be carried on with the least possible expense and ostentation. Jefferson recalled several ministers from the lesser European countries, and the Department of State itself consisted only of a chief clerk, seven under clerks, and a messenger besides the Secretary. Thus the United States entered upon this critical period with a diplomatic establishment which was modest to the point of inadequacy.

There was in fact some reason to think that the worst foreign troubles were over. Jay's treaty with England was still in effect, Adams's agreement with France had solved the difficulties in that quarter, and when in 1801 peace came in Europe, removing

the problems of neutral rights, the duties of the Secretary of State appeared to be light indeed. But Napoleon soon demonstrated that peace had even greater dangers than war. In the hope of recreating a French colonial empire, he acquired from Spain the entire Louisiana territory, and gradually made clear his intention of occupying it in force. To the southern Republicans this policy, when finally established as a fact during 1802, was a signal of disaster. The decrepit and unambitious Spanish empire had been a harmless neighbor, and had even been persuaded in 1795 to open the Mississippi to American commerce, and to grant at New Orleans a "right of deposit" for goods awaiting transshipment to ocean going vessels. But an energetic and avaricious people like the French could hardly be expected to be gracious, and when in the autumn of 1802 the Spanish Intendant at New Orleans cancelled the right of deposit, it was accepted as a sign of what might be expected from Napoleon when he finally took possession. The western people clamored for war, and the eastern Federalists supported them in order to harass Jefferson's pacific administration.

Jefferson, though desirous of maintaining peace, was determined that the Mississippi trade should be rescued. He sent Monroe to France to assist R. R. Livingston, the resident minister in Paris, in buying New Orleans and the Floridas. The instructions to Monroe and Livingston, drafted by Madison, were not without interest, and showed an able grasp of the situation. For some time Livingston had been insisting to the French that their contemplated occupation of Louisiana could not remain unchallenged by the United States, and that it would change the Americans from a friendly to a hostile people. By the beginning of 1803, when Monroe's instructions were drawn up, Madison was aware that the French were having great trouble in St. Domingo, and that war might be renewed between England and France, and he counted on these things to persuade Napoleon that his Louisiana project was impracticable. Should all these arguments fail, and should France show a disposition to close the Mississippi, the two emissaries were directed to proceed to

England, after intimating their purpose to Napoleon, and to open negotiations for an alliance, with war definitely in view.

Everything went very nearly as the administration had hoped. Napoleon decided to renew war with England, realized that this, together with his failure in St. Domingo, rendered a colonial empire impossible, felt the need of money, and sold all of Louisiana to the United States. It can hardly be contended that Jefferson and his Cabinet were responsible for this decision, but they deserve the credit for analyzing correctly the probable course of events, preparing to take advantage of opportunities, and accepting the transaction in its full and unexpected magnitude. News of the purchase reached Washington on the eve of July 4, 1803, and the treaties were delivered at Madison's office on the 14th.

There was, of course, a constitutional difficulty. Nothing in the law seemed to indicate that the national government had the power to make any such stupendous addition to the territory of the United States. Jefferson and Madison both felt this, and the President drew up a constitutional amendment to obviate the difficulty. But other Republicans, especially W. C. Nicholas and Albert Gallatin, disagreed, and managed in the best Federalist fashion to torture the language of the Constitution so that it would authorize the acquisition of new lands. The President protested, but was persuaded; Madison was silent. The treaty was handed over to Congress, where Timothy Pickering, most stiff-necked of Federalists, made an eloquent speech in behalf of "strict construction", and it began to be plain that any party in power would find a broad interpretation of the Constitution to its taste, while the opposition would cherish fondly the letter of the law. Madison had taught his lesson well. However, the administration's majority was quite sufficient, and easily carried the day.

Despite the magnificence of his achievement, Jefferson had not got what he wanted. All the rivers east of the Mississippi which flowed into the Gulf of Mexico flowed through foreign territory, either through West Florida, which extended from the

New Orleans territory to the River Perdido\*, or through East Florida. Jefferson had wanted West Florida far more ardently than he had desired the howling wildernesses of northern Louisiana, and thanks to a communication from Livingston he and Madison decided that this coveted territory had actually been included in the Louisiana Purchase. Unfortunately, neither Napoleon, nor the Spanish ministry, nor the officials of either government at New Orleans agreed with this view, and, unless Spain could be persuaded to accept it, an American occupation of the territory would be a signal for war, which Jefferson wished to avoid. Congress passed an act establishing customs houses on the rivers of West Florida, which infuriated Yrujo and led to an acrimonious scene between him and Madison, but the tedious historical arguments of the Secretary of State carried no conviction, and the affair dragged on in a series of undignified wrangles.

The fact was that Napoleon so dominated the Spanish government that his influence in the matter would be decisive. Instead of lending aid to the United States, it suited his purposes in December, 1804, to inform Monroe pointedly that the claim to West Florida was preposterous, and he sent word to the Spanish that they might expect his entire support. Consequently, when Monroe went to Madrid early in 1805, instructed by Madison to make "a skilful appeal to the fears of Spain, and the interest which France, as well as Spain, has in not favoring a coalition of the United States with Great Britain", he had a very uncomfortable time. The Spanish would not admit his claims to West Florida, they would not sell East Florida, and they would not talk about claims for damages to American shipping which they had already admitted and for which they had promised reparation. They began again to harry American commerce, and blandly informed the American minister that his government might choose peace or war, as suited its convenience. Monroe left Madrid in May, 1805, completely defeated.

\* The River Perdido forms at the present day the western boundary of the state of Florida.

Ridiculed as it was by France, Spain and the Federalists, the American claim to West Florida was no weaker than a hundred similar pretensions which had been upheld in Europe by force of diplomacy or arms. But the success of diplomacy was measured not by its ethical nature, but by its immediate results, and when in the summer of 1805 the news of the fiasco at Madrid reached America, the administration was much embarrassed. The failure to acquire Florida was unfortunate, but the simultaneous refusal of Spain to discuss just claims for damages to shipping left the administration in a condition almost ignominious, and exposed Madison to the charge of mismanagement. A new policy was imperative. Jefferson wished to make an alliance with England, for he was possessed by a sudden fear that France harbored sinister designs against the United States. Gallatin was concerned to avoid war if it could be done without sacrificing national respectability. Livingston and Monroe had already suggested that West Florida be occupied by a United States army, and they were supported by several zealous Republicans at home. Madison wished to open new negotiations, at Washington rather than at Madrid, which should omit the question of boundaries and concern themselves only with arrangements for the use of the navigable rivers flowing through West Florida.

There was, however, one further possibility, though a very inglorious one. When Talleyrand had informed Monroe and General Armstrong, the new American minister to France, that the United States could expect no help from Napoleon in their Spanish policy, certain individuals had added the usual discreet suggestion that if some money changed hands the disposition of the Emperor might become more favorable. The Americans indignantly refused to hear of such a notion, and Madison commended them for their attitude. "The United States," he wrote grandly to Armstrong, "owe it to the world as well as to themselves to let the example of one government at least, protest against the corruption which prevails. If the merit of this hon-



est policy were questionable, interest alone ought to be a sufficient recommendation of it. It is impossible that the destinies of any Nation, more than of an individual, can be injured by an adherence to the maxims of virtue. To suppose it, would be to arraign the justice of Heaven, and the order of nature." And from Philadelphia he repeated to Jefferson his disapproval of such a scheme. "In Paris I think Armstrong ought to receive instructions to extinguish in the French government every hope of turning our controversy with Spain into a French job, public or private. . . ."

But in the summer of 1805, Napoleon broke his camp at Boulogne and marched to Austria with the army which he had prepared to invade England. A new outbreak of fighting seemed inevitable; the European continent might be expected to engage for a year in battles, and for another year in negotiation, before peace should be restored. On October 23 Jefferson wrote in some satisfaction at this prospect. "This gives us our great desideratum, time. In truth it places us quite at our ease." His fears of the designs of France vanished, and he proposed a new negotiation for the Floridas, this time not in Madrid but in Paris, and with the price of those territories as the means of temptation. "We need not care who gets that, and an enlargement of the sum we had thought of may be a bait to France." The whole situation seemed to bear a strong resemblance to that which had resulted in the acquisition of Louisiana, and might be expected to produce the same success. But Florida was Spanish territory, not French, and what Jefferson suggested was precisely what Madison had rejected: that the controversy with Spain should be turned into a French job, in this case public rather than private. If the Secretary of State made any protest, we should not know of it, for he had returned to Washington, where his opinions were stated orally. There is certainly no record of his dissent at the Cabinet meeting of November 12, when that policy was officially adopted. In the course of time Congress met, and after a public message breathing threats of war against Spain,

Jefferson contrived to make it known that he actually wished an appropriation of two million dollars with which to bargain for the Floridas in Paris.<sup>6</sup>

This decision cost the administration dear. John Randolph of Roanoke, their only competent leader in the House of Representatives, made it a pretext to go into open opposition. He wished to make a bold stand against Spain; he was disgusted with the devious methods by which the policy of the administration was carried on, and he detested above all the Secretary of State as the chief instigator of these follies. With his defection, the party in Congress fell into some disorder, and it was only by the strictest methods of political discipline that the appropriation bill was finally carried, on the last day of the session. Neither did all this painful procedure accomplish its object, for by the time the money was voted, and Armstrong instructed to begin the negotiations, Napoleon was fighting a new campaign in Germany. In time he returned to Paris, laden with the spoils of victory. He was not tempted by the two million, and he refused to pay any attention to Armstrong's efforts. By the end of 1806 he had far more serious matters in hand, and when they were made known, the United States was obliged to think of things other than the Floridas.

## 3

With the renewal of war between England and France in 1803, there began again the English practice of impressing seamen from American ships. It was a notorious fact that large numbers of British sailors deserted their own navy and merchant marine to enter the more attractive and better paid employ of Yankee ship-owners. Great Britain made no claim to the services of American citizens, but she did maintain a right to board American vessels and take off her own men. Since naturalization was not accepted as legal by either country, while the establishment of a man's nationality was open to all kinds of difficulties as well as frauds, it was unavoidable that a good many Americans should be impressed, and made to suffer the

hardships of service in the British navy. No one doubted that England had a right to the service of her own citizens, and what is more remarkable, few Americans doubted that British naval officers had a right to board American merchant ships and take off such citizens. Perhaps this lack of resentment was just as well, for the rights of the matter counted for little or nothing beside the fact that England, when at war, grievously needed men for her navy, and would no more give up the practice of impressment than she would peacefully surrender her supremacy on the sea.

Early in 1804 Madison sent instructions to Monroe on the subject. He took the ground that the flag of a ship should protect every member of its company; that the act of impressing even a British citizen from an American ship on the high seas was a violation of international law, and a just cause for resentment. This view he reinforced with copious arguments from the standard writers, and if we may trust Tench Coxe, who ought to have been informed in such matters, the whole train of thought was novel to Americans. According to Coxe, who first saw the letter in 1807, even the best lawyers in Philadelphia had been unable to conceive that the British practice was legally indefensible. He himself was so pleased with Madison's argument that he had the instructions reprinted several times in the newspapers, for the inspiration and edification of the general public.<sup>7</sup>

The British ministry was civil enough when Monroe spoke from Madison's brief, and indeed they took all possible steps to set free genuine American citizens who had been taken into naval service, but their need was to maintain a navy, and if this could not be done in accordance with the principles of Grotius it would have to be done in defiance of them. They continued their impressments, and Monroe departed for Madrid to suffer the humiliations which have already been described. Impressment presented a problem which was insoluble under the conditions of that time. Madison himself eventually saw the position of the British, and early in 1807 suggested to the Cabinet that the United States offer to give up all British sailors in its mer-

chant service. Gallatin pointed out in reply that "Our tonnage employed in foreign trade has encreased since 1803 at the rate of about 70,000 tons a year, equal to an encrease of 8,400 sailors for two years; and I would estimate that the British sailors have supplied from one-half to two-thirds of that encrease. . . ." <sup>8</sup> This fact rendered any proposition to England impossible. Only by removing the causes for such a state of affairs could a conflict be avoided, and this was out of the question until the Napoleonic struggle had ended.

The impressment controversy, however, was only one symptom of a fundamental hostility between Great Britain and the United States. The basis of England's prosperity and security was her sea-power, and her navy could not be maintained without the ships, sailors, and wealth which the merchant marine furnished. For generations the object of British policy had been to further the development of the merchant marine, by navigation acts, by encouraging the natural mercantile enterprise of the people, and by opening up new trade routes, and it had become the rooted conviction of the English nation that commercial supremacy was essential to naval supremacy, and hence to national security. The United States offered no threat to British naval power, but the enormous growth of American shipping constituted the most serious menace to British mercantile interests which had appeared since the decline of Holland. Both nations realized this, and although the weapons of commercial warfare were called peaceful, the relations between the two peoples were actually those of enmity. With the outbreak of the Napoleonic wars, England was obliged to divert many of her ships and sailors from commercial to naval occupations, and the opportunities thus provided for Yankee traders to extend their operations were fully utilized. There was a tremendous increase in American commercial prosperity. England could tolerate this only to a limited extent; as the years went by and the wars did not cease, measures to restrain the enterprise of the Americans became inevitable. In the existing state of international affairs these measures could be neither delicate nor "le-

gal", and Jefferson's government was faced with the alternative of retaliation or complete submission.

In the spring of 1805 Sir William Scott, of the Court of Admiralty, condemned the American ship "Essex" under a principle of maritime law known as the Rule of 1756. According to this rule, which had been formulated and was accepted only by Great Britain, a trade not open in time of peace could not be opened in time of war. Direct trade between the French West Indies and France was not permitted to American vessels in time of peace, therefore England proposed that it should not be permitted in time of war. But for some years American ships had engaged in a very prosperous trade by taking cargoes from the French islands to the United States, unloading them and paying duty, then immediately reloading them and proceeding to France, receiving a drawback on the American duty paid. The British Admiralty courts had seen fit to allow this, until in the case of the "Essex" Sir William Scott ruled that such a procedure amounted to the same thing as direct trade, and condemned the ship. This was scarcely a belligerent act directed against Napoleon; it was a measure for the protection and aggrandizement of English commerce, an attempt to stop the alarming growth of American shipping. Incidentally, it embarrassed the French, and could if necessary be justified on those grounds. Other condemnations followed in rapid succession, and it appeared that United States shipping was to be regulated by England as fully as if the colonies had never won their independence.

News of this development reached Madison in the summer of 1805, just as he heard of Monroe's dismal failure at Madrid, and it helped to convince him that an alliance with England against Spain was undesirable. He immediately set about the composition of a huge pamphlet, which he heavily entitled "An Examination of the British Doctrine, which subjects to capture A Neutral Trade, Not Open in Time of Peace". During the next session, each member of Congress found a copy of the book on his desk, the ministers abroad were furnished with one apiece,

and the work was published for general consumption. It was very able, profound in learning and cogent in reasoning. It traced the history of neutral rights through various treaties and agreements, and it cited the best authorities on the law of nations. It was very dull. Senator Plumer of New Hampshire found that it fatigued him more than anything he had ever read; John Randolph avowed himself unable to get through it; even the patience of John Quincy Adams was severely tried.

Nevertheless the pamphlet, together with the instructions on impressment, ably and exhaustively demonstrated the principles upon which American policy might rest. Perhaps, if Madison had been pleading a case before a world court, he might have won. Certainly he had given the people of his own country a legalistic basis for their national prejudices, which was one of the functions of a Secretary of State. But as instruments of national policy, Madison's manifestos were of little importance. John Randolph correctly described the "Examination" as a shilling pamphlet directed against seven hundred warships. "What will Great Britain say?" he asked, and answered with a sarcastic jibe at the Secretary, ". . . that she cannot sit down quietly and be extirpated from the face of nations, out of complaisance to Grotius, or Bynkershoek, or in deference to the unknown author of this pamphlet. . . ." <sup>9</sup> The English government did not require instruction in the law of nations; it was concerned with other problems.

Its philosophical presuppositions having been laid down by Madison, the next step for the American government was to do something about them. William Pinkney of Maryland was sent over to join Monroe in negotiating a treaty, while Congress was persuaded to pass a non-importation act, which was nevertheless suspended until the autumn of 1806. In formulating instructions for Monroe and Pinkney it was less necessary that Madison should have a clear conception of the rights to which the United States was theoretically entitled, than that he should understand the European situation and have a fair notion of what he was likely to get without fighting. It was Madison's

weakness in 1806 that he did not understand the European situation. "England seems as ready to play the fool with respect to this country as her enemies", he wrote in November, 1805. "How little do those great Nations in Europe appear, in alternately smiling and frowning on the U. States, not according to any fixed sentiments or interests, but according to the winds and clouds of the moment! It will be the more honorable to the United States if they continue to present a contrast of steady and dignified conduct; doing justice under all circumstances to others, and taking no other advantage of events than to seek it for themselves."<sup>10</sup> Excellent as the latter sentiments are, the earlier words of the quotation suggest not the understanding of a statesman but the provincialism of a Virginia farmer. Even the despised merchants of New England knew enough to realize that something other than the "winds and clouds of the moment" governed England's policy, and they knew that the hope of combatting it was slim.

This failure to grasp the magnitude of European events is the only explanation of the fact that Jefferson and Madison, without intending to fight, nevertheless required Monroe and Pinkney to obtain great concessions in neutral trade and the abandonment of the practice of impressment. Such a proposition was hopeless, and though the two negotiators, like Jay before them, signed the best treaty they could get, Jefferson refused even to send it to the Senate, and Madison "expressed the greatest astonishment and disappointment" to the British minister at Washington, who happened to be the first to receive the treaty and show it to the Secretary of State. Bad as the agreement was, the President was assuming a heavy responsibility in summarily rejecting it, but in the back of his mind was a conviction that the United States still held the upper hand, because of the dismay which would be caused by an adoption of severe commercial restrictions. Accordingly, when Madison prepared new instructions for Monroe and Pinkney in May, 1807, he directed them to renew their considerable demands, and in case of difficulty to threaten an embargo. "[The British government] must

know," wrote Madison, "that apart from the obstacles which may be opposed here to the use of British manufactures, the United States, by a mere reciprocation of the British navigation and Colonial laws, may give a very serious blow to a favorite system. . . . Should this policy be adopted by the United States, as it respects the British West Indies, the value of these possessions would be either speedily lost, or be no otherwise than by a compliance with the fair reciprocity claimed by this Country. It can no longer be unknown to the most sanguine partizan of the Colonial Monopoly, that the necessaries of life and of cultivation, can be furnished to those Islands from no other source than the United States; that immediate ruin would ensue if this source were shut up. . . ." To this dire prophecy was added a reminder that the British navy might well become dependent upon American naval stores, if Napoleon gained control of the Baltic, and that England herself would fare ill for food without American grain. It seemed impossible for Republicans to grasp the fact that England, if forced to choose between sailors and food, would choose sailors.

Hardly had these instructions been dispatched when the British frigate "Leopard" fired on the American frigate "Chesapeake", which had refused to allow English officers to come on board to search for deserters. Three men were killed and eight wounded, after which the "Chesapeake" was boarded and four sailors alleged to be British were taken off. However passive the country might be to outrages on its merchant vessels, this piratical act against a war-ship aroused a feeling through the United States which Jefferson described as the greatest state of popular exasperation he had seen since Lexington. Madison's correspondents sent him letters hysterical with indignation; one man in Kentucky submitted a plan for the invasion of Canada, and insisted that the famous French general Moreau, then living in New York, should be employed as commander. Tench Coxe, describing the patriotic fervor which appeared in Philadelphia, emphasized its importance by his account of public opinion before the event: "of the 300 most fashionable families of this



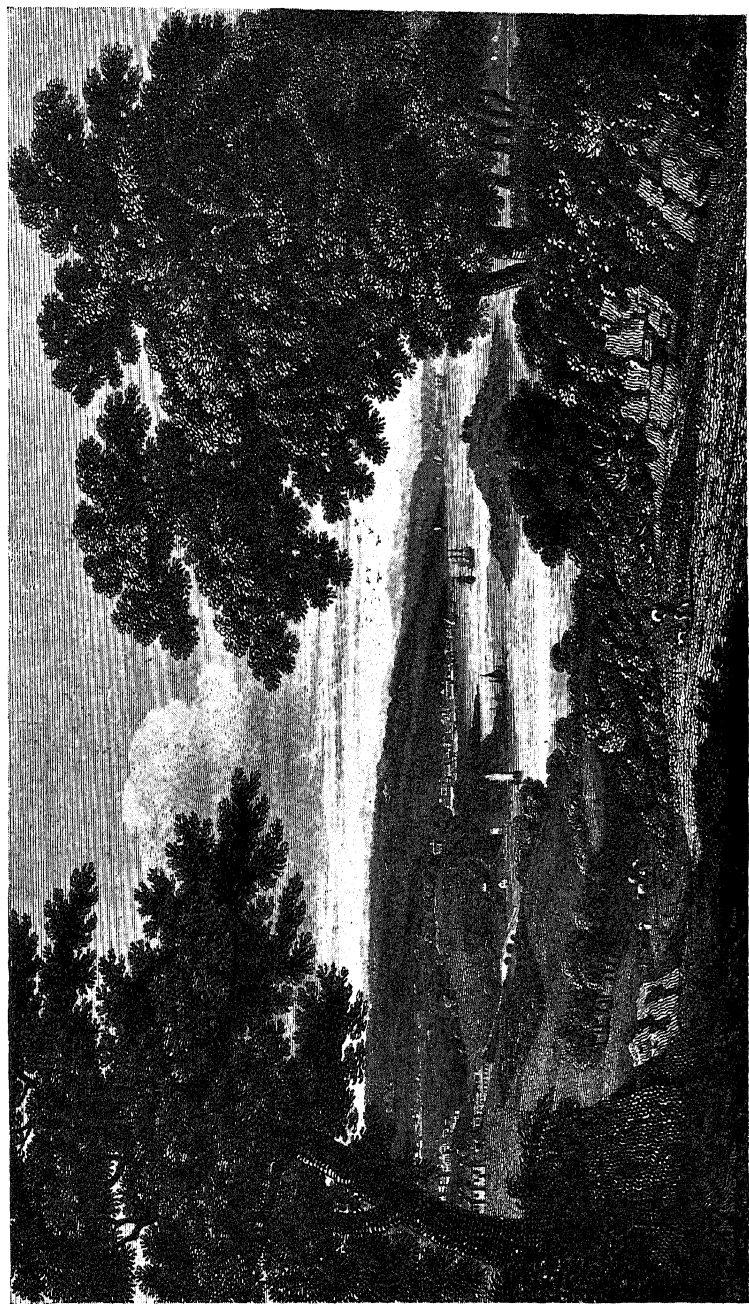
city 295 probably were on the day before we received the account of the Chesapeake's affair, anti democratic professed—anti gallican—fond of the English & far too acquiescent in their captures, favorers of the right to impress their own people *any where*." General Henry Dearborn wrote ominously that the British Indian agents were active in stirring up the savages of the northwest. Henry Lee, Madison's old friend who had turned Federalist, suppressed his partisanship long enough to contribute a letter on the virtues of preparedness, in which he descended even to details of the bore of muskets, the size of bullets, and the management of artillery." Had the administration wished to do so, there is no doubt that Congress might immediately have been summoned, and the nation led into war without the opposition of more than a few inexorable Federalists of the Essex Junto.

But the administration did not want war. The British and the French ministers declared that Madison was even more resolute than the President in his desire for peace. Jefferson issued a Proclamation, forbidding any communication with British ships of war, and on July 6 Madison sent Monroe instructions. A disavowal of the act was to be demanded of the British government, together with proper apologies and redress, and coupled with this there was to be a new demand for a final settlement of the impressment controversy upon grounds favorable to the Americans. Since the British would not and could not give up impressment, the joining of these two subjects made a settlement of the former impossible. Canning treated Monroe with suave disdain, and the American minister soon returned to Virginia, having endured nearly all the affronts which it was possible to heap upon a diplomatist, from all the principal courts of western Europe.

The "Chesapeake" affair was not the only, nor the most serious, calamity of the year. Napoleon's Berlin Decree of November 25, 1806, reached the United States in the following January, it was followed by the British Orders in Council of January and November, 1807, which in turn provoked Napoleon's Milan

Decree of December 17. The English Orders forbade any neutral ships to proceed to any part of the Continent under Napoleon's control without first landing the cargo in England and paying duties; the French edicts subjected to confiscation every ship and cargo which had passed British inspection. The Americans were left to content themselves with the direct trade to England, and to such few parts of the Continent as Napoleon had left unmolested.

It is unlucky that Madison's unofficial correspondence during this critical year is even scantier than usual in the period of his Executive career. There is practically no direct evidence of his personal opinions. It might be deduced, and in fact it was widely believed, that the members of the administration were chiefly actuated by devotion to France and subserviency to Napoleon. It might be argued that they were afraid of fighting, or perhaps deeply committed to a theory of pacifism. Certainly Jefferson's letters indicate that he had a rooted aversion to war, but this sprang more from a desire to pay off the national debt than from a dislike of physical conflict. Madison shared this feeling, though probably with less devotion. Each of them, moreover, cherished the fond hope that war, except in case of invasion, could be regarded as one of the corruptions and iniquities of Europe from which Americans had made themselves free. The dream was shattered for Jefferson and Madison, as it has been for "isolationists" ever since, by the fact that commerce made the United States a part of Europe. Economic contacts could not exist without involving political relations; Americans could not have both their profits and their isolation; in fact, as long as Britain controlled the seas, they could not even remain truly neutral while trading, for practically every ship that left American ports became subject to the will of England as soon as it reached the high seas, and became thus an enemy of France. Jefferson and Madison faced this problem squarely, and chose isolation and neutrality, even at the cost of ruining foreign commerce.



THE CITY OF WASHINGTON IN 1804



It is remarkable that no "middle course" seems to have occurred to the Secretary of State. In the name of expediency, a number of concessions could have been made to England which might possibly have led to an amicable settlement of differences. It was not the ship-owners who objected to the impressment of their seamen, but the government, and these same merchants preferred to keep such remnants of trade as the British left them rather than to resist. But Madison harped incessantly on general principles. He insisted that the British give up the right of search and impressment; that they admit the illegality of the Rule of 1756. By such conduct he unnecessarily exacerbated the relations between the two countries, and he also set a precedent for the meticulous maintenance of "neutral rights" which was honorable enough, but perilous for a nation which wished to avoid war.

The dismal failure to obtain from England a full admission of neutral rights eventually led the administration, as has been said, to the point where it seemed necessary to choose between war and a complete withdrawal from foreign trade. Accordingly, Republican policy in December, 1807, moved into its last fortress, the embargo. This was expected not only to assure a strict and impartial neutrality and remove the possibility of new encounters with the European belligerents, but also to act as a coercive force against England, and attain the same ends as war. It was the first attempt on a large scale to apply "economic sanctions". With its adoption diplomatic business practically came to an end, as far as the Secretary of State was concerned. He had only to receive amiably the visits of Erskine and Turreau, and assure them that until they should have something to offer he could merely promise the continuance of the embargo. Erskine was greatly distressed by the situation, for he was kindly disposed toward the United States, and he worked manfully at the hopeless task of bringing Madison and Canning into accord. Turreau had every reason to be happy, for the embargo was, oddly enough, a welcome contribution to the "Continental Sys-

tem", by which Napoleon was endeavouring to conquer England by impoverishing her. Hence it did not actually achieve impartial neutrality, a fact which the Federalists soon pointed out.

As an instrument of national policy, the great Republican experiment was a costly and tragic failure. It had little or no effect upon England. The poor may have found the price of bread slightly higher than usual, but the poor had no political influence, and English ship-owners were delighted to regain by the American government's own action the commercial monopoly which they had so feared to lose. The price of maritime freights bounded upward, while in May Spain revolted against Napoleon, opening not only the Peninsula, but the Spanish colonies in South America, to English trade. As for the West Indian planters, they counted for no more in English politics than did the poor. George Joy, Madison's assiduous correspondent in London, wrote him that the embargo might have impoverished them, but no one would care: "the Planter may make bricks without straw, so long as he makes bricks, to build the gorgeous Palaces of the Merchant at home".<sup>12</sup> Canning, speaking for the government, ironically expressed a regret that the embargo proved such an inconvenience to the people of the United States.

In fact it was calamitous. Ships rotted and sailors starved; merchants went bankrupt, and farmers could find no market for their products. At the same time smuggling flourished, and began to undermine popular respect for law. American ships continued to reach West Indian ports, to arrive at Halifax, to be found carrying food to Europe, and a steady stream of goods and money flowed across the border into Canada. Thus loyal patriots found themselves not only beggared by the financial depression, but forced to watch their neighbors growing rich by illicit trading. The anger and distress of the New England states increased until there was talk of secession, for many men felt that the government had reached a point of tyranny against which rebellion was justifiable.

During this terrible year, the members of the Republican administration discovered a fact which apparently surprised them.

For years they had denounced the Federalists as a party which sought, by bringing on a war, to fasten on the country a system of government more absolute and despotic than the American people desired. Nearly every sensible person was ready to admit that for the conduct of war a centralized authority was necessary, an authority which need not be too tender with local prejudices and peculiarities. Now it was demonstrated that to attain isolation it was necessary to invoke a despotism no less burdensome. The embargo could have been enforced; isolation could have been maintained; but it would have required not only a physical, but a moral and spiritual tyranny such as is described nowadays by the word Fascism. Thus the embargo, though an experiment worth trying, was scarcely preferable to war. The Republicans found themselves in the ridiculous position of defending, in the name of Peace, Justice, and Reason, a system of government completely opposed to every principle for which they had contended, and the Federalists appeared as the champions of individual initiative and states' rights.

Jefferson could not bring himself to face the consequences of such a situation. As his cherished project collapsed, he withdrew from active direction of political affairs, leaving everything to President-elect Madison and to Gallatin. Madison had taken little part in the enforcement of the embargo. He had believed in it, and he found it difficult to realize that the people of the northeast had no sympathy with the measure. Gallatin had done his duty as the officer in charge of enforcement, but with a truer grasp of realities he had foreseen from the first that the experiment must either succeed quickly or fail miserably. From Europe Armstrong and Pinkney begged their superiors to understand that nothing was being accomplished by the policy. And Madison finally was forced to admit the conclusion that there were but two alternatives for the United States: war and submission.<sup>13</sup> Under these circumstances Congress met, at the end of 1808, struggled hopelessly with the facts, and repealed the embargo. Once more the time had come to adopt a new policy.

## CHAPTER XII

### *THE PRESIDENCY*

FROM an early period in the Republican regime it had been generally understood that Madison was to be the official candidate of the party for President whenever Jefferson should see fit to retire. His most serious rival had been Aaron Burr, for according to the short tradition of the country Vice-Presidents were elevated to the highest office, but Burr had soon been read out of the party and his pretensions entirely demolished. Since an alliance with some group of New York politicians was necessary, Jefferson substituted George Clinton for Burr in the Vice-Presidency, and gained for himself the forces of that ancient democrat. Clinton was a perennial candidate for the Presidency, but by 1808 he was failing in mind and body, and offered no real menace to the hopes of the Secretary of State. As the election year approached, it became plain that opposition to Madison would come chiefly from his own state and neighborhood. The candidate who appeared against him was James Monroe, but the moving spirit behind the scenes was John Randolph, most remarkable of insurgent Republicans. The story of his revolt must be briefly recounted.

In the year 1795 a corrupt Georgia legislature granted huge tracts of land, at a ridiculously low price, to a company of speculators largely composed of the legislators themselves. Scrip based upon the value of this land was speedily sold throughout the Union, to the great pleasure and profit of the sellers, while honest citizens of Georgia arose in outraged protest and elected an entirely new assembly, which proceeded at once to annul the grant which its predecessor had made. Unscrupulous as the affair had been in Georgia, most of those in other states who had bought scrip had done so in good faith, and now saw themselves despoiled of the capital which they had quite innocently invest-



ed. The matter eventually came before the federal government, and Jefferson referred it to a committee consisting of Madison, Gallatin, and Levi Lincoln for investigation and report. The report of this committee settled a new boundary for the state of Georgia, giving the United States a clear title to the disputed lands, and then arranged to have five million acres awarded to the disappointed investors instead of the original fifty million. This compromise, which was undoubtedly the best that could be made out of the disreputable business, was referred to Congress for final action.

But John Randolph had happened to be in Georgia during 1795. He had been filled with disgust at the proceedings of the legislators, and equally with enthusiasm at the sturdy republicanism of the succeeding legislature in repudiating the whole affair. By the report of Madison's committee, it seemed to Randolph not only that unjust rewards were distributed, but that the right of a state to set its own affairs in order was being denied by the Federal government. When Congress took up the subject, early in 1805, he furiously denounced the scheme, branding the members of the committee as corrupt "Yazoo men", from the name which was attached to the lands in question. For years he succeeded in preventing the ratification of the compromise, and Madison's name became associated in his mind with the iniquities of speculation and the invasion of states' rights.

His reactions to the Spanish negotiations have already been mentioned. When Jefferson sent in his cryptic message at the end of 1805, Randolph called upon the President to ascertain its meaning, and was told that two million dollars were desired to facilitate negotiations for Florida. A week later he went to Madison's office and came out with the story that money was needed in order to bribe the French. "I considered it a base prostitution of the national character to excite one nation with money to bully another out of its property," he told Congress, "and from that moment . . . my confidence in the principles of the man entertaining these sentiments died, never to live again."<sup>1</sup> Thus

the leader of the administration's party in Congress declared war on the Secretary of State, and upon the official candidate for President.

Two men better calculated than Randolph and Madison to irritate and antagonize each other have rarely tried to work together. Randolph was tall and lean, with a pale and wrinkled face which nevertheless appeared from a little distance to be decidedly boyish. He suffered from a number of complaints, and was nervous to the point of insanity, so that his conduct was as arrogant and extreme as his speeches. He would come to the House in boots and spurs, and stride up and down the aisles with a riding whip in his hand. Perhaps there never has been a man in American history to equal him in power of vituperation. He terrified the other members into abject submission, domineered over them, sneered at them, insulted them and challenged them to duels, but seldom influenced their votes. His diction was precise, his command of English remarkable, his voice high, clear and sometimes shrill. He was practically incapable of sustained, constructive thinking, but he possessed an instinct which often enabled him to penetrate further into the meaning of a situation than his wiser colleagues did, and he rarely failed to drag out what he had discovered into the light of day, to the embarrassment of more circumspect citizens. The precise and cautious Madison infuriated him by his complacency, while the Secretary could not fail to be rendered uncomfortable by such bald statements as the one quoted, which made the Spanish negotiation appear indecent, and yet closely approached the true facts of the case.

As the Republican administration continued on its way, Randolph felt that the good old doctrines were being left far behind. The purchase of Louisiana was an obvious and flagrant stretch of constitutional prerogative, though Randolph defended it; the government which had been set up over the new territory was an offence to all the tenets of Republicanism; the Executive was as powerful and influential as in the best days of Hamilton. This power and influence was wielded not entirely openly, but rather

in private conversations, by the pulling of wires, and by a kind of backstairs intrigue which Randolph affected to detest, and in which he thought Madison to be adept. He could not bear subordination; he was incorrigibly an individualist, and finally he violently seceded from the party, joining a small coterie of inexorable states' rights republicans which included such men as John Taylor of Caroline and Littleton Tazewell. Hence arose the third party, known as the Quids, and from this fortress of virtue Randolph assailed the administration with virulent and unremitting abuse. Jefferson had expected his party to divide, but he can hardly have expected to find himself opposed by Virginians acting in the name of Republican orthodoxy. It must be admitted that in this controversy among the faithful neither side was lacking in self-righteousness.

Randolph could not abide the idea of Madison as President. "One of the first causes of surprise which presented itself to me on coming to the seat of Government," he told Congress in the spring of 1806, "was that, while the people of the United States thought all eyes were fixed on the shore of the Atlantic, all eyes were in fact fixed on the half-way house between this and Georgetown—that the question was not what we should do with France, or Spain, or England, but who should be the next President." <sup>2</sup> To Madison he attributed all the evils of the administration, and he said that the Secretary of State, personally, was as mean a man for a Virginian as John Quincy Adams was for a Yankee. Consequently he entered into a long correspondence with Monroe, who was still in England, and finally fixed upon him as a rival candidate for the Presidency. At first Monroe refused, and told George Joy that he would rather be a constable than oppose his old friend, but when Pinkney was sent over to join him in negotiations, and when his British treaty was summarily rejected by Jefferson, he became disgruntled. Able as he was, Monroe had an extraordinary talent for getting into situations where he found himself snubbed. By 1807 he was agrieved at most of the governments of western Europe, and at his own as well. Returning to this country, he meditated upon

his troubles, felt himself unappreciated by the administration, and decided that if the voice of the people should summon him to the Presidency, he could not refuse the call.

## 2

A curious incident happened late in 1805, which not only annoyed Madison considerably and had repercussions upon foreign affairs, but also showed how the political wind was blowing in New York State. There arrived from England an over-optimistic adventurer named Francesco de Miranda, full of a scheme for freeing Venezuela from Spanish rule. He enlisted the aid of two New Yorkers named Ogden and Smith, and in December appeared in Washington with a letter of introduction to Madison from Dr. Benjamin Rush. He dined with Jefferson, met various members of the Cabinet, and on December 11 had a private interview with Madison. To the Secretary he disclosed his project, and asked for assistance. Madison made it plain that the government could give no help whatever to such an enterprise, nor allow any transactions in connection with it which were contrary to the law of nations, but he was not sufficiently attached to Spain, nor to the Marquis d'Yrujo, to express a stern disapproval. Nevertheless, Miranda returned to New York, told his associates that the government had given "tacit consent", and later wrote a letter to the Secretary of State, thanking him for his attentions. Men were enrolled, equipment gathered, and on February 6, 1806, the *Leander* sailed from New York on her expedition to Venezuela. Soon after the ship sailed, Yrujo became aware of what had been going on, and set the diplomatic pot boiling both in Washington and in Paris. In response to his protests, the government was forced to act, and Smith and Ogden were placed on trial.

Smith had been surveyor of the port of New York, and was removed from his office before trial. He declared that his activities had been carried on only because he understood that the expedition was authorized by the administration. Public opin-

ion, finding that the object of the scheme was to liberate an American colony, became convinced that Miranda and his associates had been scurvily treated, and the two men on trial were acquitted. Although urged to do so, Madison refused to come to New York and give testimony, and thereby gave the impression that his evidence would have been friendly to the accused. He wrote that a full disclosure of the truth must be left to time, which would "do full justice to all parties". Meanwhile he attributed the whole trouble to political factors, and soon afterwards a letter from Pierpont Edwards told him what he wanted to know.<sup>3</sup> There were, wrote Edwards, four parties in New York State: Clintonians, Lewisites, Burrites, and Federalists. The three first claimed to be Republican, but the Burrites were almost all hostile to the administration. The Clintonians and the Lewisites were well-disposed, but more concerned with local interests than with national affairs, and some leaders of the Clintonians were very friendly to John Randolph, not because they cared a whit for his political philosophy, but because the influence exerted to bring in Monroe as President would tend to aggrandize De Witt Clinton. Thus it appears that even at this early date the candidacy of Monroe was known and used in New York. As for the Federalists, they held the balance of power in local politics, hence neither the Clintonians nor the Lewisites would do anything to ruffle them. Consequently there had been no one to stir up sentiment for the administration at the time of the trial, and acquittal had followed. It was not a very pretty story, from any point of view.

## 3

Madison's own thoughts about the events of these years are almost unknown to us, except as they may be gathered from his official correspondence, and from the public policies of the government. He had never written freely to more than two or three of his friends, and of these Jefferson was constantly with him, so that there was no occasion for letters; Monroe was first in

Europe, where the personal views of the Secretary of State could not be sent unless in cipher, and later in Virginia, bearing a slight grudge; Edmund Randolph had long since turned Federalist and passed out of Madison's circle; Pendleton was dead. The fact is that if Madison, after 1790, had always been by Jefferson's side, we should know almost nothing about him, for of the letters which seem to reveal his inner thoughts, nineteen out of twenty were written to Jefferson. That is why the Secretary of State is such a shadowy figure. Men at the time knew him somewhat better, but still not very well. Early in the administration it was persistently rumored that there was serious dissension between Jefferson and Madison; later, in 1806, it was solemnly stated by responsible Senators that the President was entirely governed by his Secretary of State. The first story was certainly false, and there is no good reason to put faith in the second.

The sole evidence which remains of Madison's attitude towards John Randolph was reported by John Quincy Adams. After the ignominious failure of the impeachment of Judge Chase, which had been managed by Randolph, the bitterly enraged Virginian returned to the House and introduced resolutions providing for the recall of judges by vote of Congress. Adams met Madison at this time, and found him "much diverted at the petulance of the managers on their disappointment".<sup>4</sup> This was in March, 1805, long before Randolph had reached his high flights of denunciation, and while the only point of controversy between the two men was the Yazoo affair. The embargo, the Presidential election, the defection of Monroe, the insults of Canning and of Napoleon, none of them called forth from Madison any written outburst of personal feeling which has survived.

Yet he was a sociable man, and there are a few, a very few, glimpses of him appearing in the records of the time. We find him at an agreeable dinner given by General Dearborn, the Secretary of War. After several bottles of champagne had been emptied, Madison observed that it was a most delightful wine when drunk in moderation, "but that more than a few glasses

always produced a headache the next day". Postmaster-General Gideon Granger thereupon remarked that "this was the very time to try the experiment", and Dearborn genially produced "bottle after bottle", which greatly animated the company, without causing "the least invasion of sobriety". Fond as he was of dinners and parties, the diminutive Madison did not like to dance. When Robert Smith, the wealthy Secretary of the Navy, gave a great ball, Madison attended, but spent the evening playing chess with John Quincy Adams.<sup>5</sup>

One Sunday afternoon in the summer of 1806 Mr. and Mrs. Madison, Dr. and Mrs. Thornton, and another lady drove into the country to spend the afternoon with Mrs. Samuel Harrison Smith. "Mrs. M. was all that was tender, affectionate and attractive as usual," wrote the hostess afterwards, "Mr. M. was in one of his most sportive moods, the Dr. in his philosophical and the ladies disposed to be pleased." The party walked about the grounds, swung in the hammock, sat on the benches under the trees, and inspected Mrs. Smith's new milk-house. Later they gathered around the large table and bestowed approval on the home-made bread, and the butter which their hostess proudly confessed had been churned with her own hands.<sup>6</sup>

In the summer of 1805 Dolly Madison had a painful affliction in the knee which kept her from all social engagements. Towards the end of July, a consultation of physicians was held, and she was advised to go to Philadelphia for treatment by a distinguished surgeon named Physic. Accordingly, the Madisons set out, and it was during this journey that the Secretary, meeting the courier on the road, opened the dispatches and read for the first time of Monroe's failure in Madrid. Perhaps it was this devastating news which made him ill, for "one night on the way he was taken with his old complaint," wrote Dolly, "and I could not fly to aid him as I used to do." Next day, "Heaven in its mercy restored him", and when they arrived in Philadelphia, he sat anxiously by the bedside of his wife, waiting for the surgeon's verdict, and doubtless worrying about the Spanish negotiations. Dr. Physic promised a cure, but for three months the

Secretary of State remained in Philadelphia with the patient, while the first news of British depredations and French menaces arrived, and the Cabinet met in Washington without him. He employed his leisure time in receiving hosts of callers, and in doing the research for his pamphlet on the Rule of 1756; meanwhile Dolly slowly recovered.

By October 23 Madison felt that he could leave his wife and get back to the urgent business awaiting him in Washington. It was almost the first separation since their marriage, and the letters which Dolly wrote her husband after his departure allow us to look in for a moment upon an attractive and rather unexpected side of the scholarly little statesman's life. On the day he went away she wrote: "A few hours only have passed since you left me, my beloved, and I find nothing can relieve the oppression of my mind but speaking to you, in this, the only way. Dr. Physic called before you had gone far, but I could only find voice to tell him my knee felt better. Betsey Pemberton and Amy (her maid) are sitting by me, and seem to respect the grief they know I feel at even so short a separation from one who is all to me. . . ." On October 24: "What a sad day! The watchman announced a cloudy morning at one o'clock, and from that moment I found myself unable to sleep, from anxiety for thee, my dearest husband. Detention, cold, and accident seem to menace thee. . . ." October 25: "This clear, cold morning will favor your journey, and enliven the feelings of my darling. I have nothing new to tell you. The knee is mending, and I sit just as you left me. The doctor, during his short visits, talks of you. He regards you more than any man he knows, and nothing could please him so much as a prospect of passing his life near you; sentiments so congenial to my own, and in such cases, like dew-drops on flowers, exhilarate as they fall. The Governor, I hear, has arrived, and is elated with his good fortune. General Moreau is expected in town very shortly. . . . Adieu, my beloved, our hearts understand each other."

On November 1: "I have great pleasure, my beloved, in repeating to you what the doctor has just told me—that I may



reasonably hope to leave this place in a fortnight; I am so impatient to be restored to you. I wish you would indulge me with some information respecting the war with Spain, and the disagreement with England, which is so generally expected. You know I am not much of a politician, but I am extremely anxious to hear (as far as you think proper) what is going forward in the Cabinet. On this subject, I believe you would not desire your wife to be the active partisan that our neighbor is, Mrs. L., nor will there be the slightest danger, while she is conscious of her want of talents, and the diffidence in expressing those opinions, always imperfectly understood by her sex. . . . Adieu, my dear husband. Peter brings me no letter from you, which really unfits me from writing more to any one." Curiously enough, the Marquis and Marchioness d'Yrujo were at this time in Philadelphia, and were assiduous in their friendly attentions to Dolly. Even after the final break between Madison and the Marquis, which occurred early in 1806, their wives continued to be upon amiable terms with each other, though their mutual visits were perforce restrained.<sup>7</sup>

Normally, the Madisons did a great deal of entertaining at Washington. Their house had been selected for its ample size; Mrs. Madison was an accomplished and enthusiastic hostess, and their rooms were often filled with visitors. John Quincy Adams records several dinners which he took with the Secretary of State; in March, 1806, it is interesting to read that one of the guests was John Marshall. A little later, the social amenities were cramped by political animosities; Federalists kept to themselves in haughty seclusion; while Madison's troubles were such that he ceased to leave cards at the houses of acquaintances. Nevertheless, even during the embargo winter of 1807-1808 there was much festivity. An opposing pamphleteer charged the Secretary with giving his dinners for the purpose of building up support for the Presidency: the Congressmen, said he, "were surfeited with good eating and attentions. It is shrewdly suspected the great mortality which raged among that valuable body last winter, was principally owing to their being in the

habit of overeating themselves at these civic feasts." The same carping critic, dwelling upon the theme that Madison was afraid of France, also suggested that "the frown of Mrs. M. is scarcely less alarming to His Honour than the warlike curls of the valiant Turreau's irresistable whiskers".<sup>8</sup>

## 4

In January of 1808 formal proceedings got under way for making Madison President. On the 16th there appeared in the Richmond *Enquirer* a "card" suggesting that the legislature assemble at the Capitol on the 28th to nominate electors for President and Vice-President. News had come from Washington that the Clinton forces were negotiating with the Monroe party, but were having trouble in distributing the offices between the two, and it seemed that something definite must be done if the sentiment in favor of Madison was to be preserved. On the 21st, a slip of paper was circulated among the members of the assembly, summoning all friends of Madison to meet at the Bell Tavern at six o'clock that evening, so that electors favoring him might be nominated. Thus the party tried to steal a march on its opponents, who might be presumed to be waiting for the 28th. But on the same afternoon, about 4 o'clock, one of the members arose in the House, and announced that a meeting would be held in the Capitol, at six o'clock, to nominate presidential electors. Consequently, when the appointed hour came, two parties of politicians moved through the streets to their respective destinations; one group the Republicans favoring Madison; the other those favoring Monroe. Over a hundred men came to the Bell Tavern, casting their votes unanimously for Madisonian electors, while at the Capitol there was a gathering numbering sixty-seven, of whom ten voted for Madison and the rest for Monroe. Thus the Republican opposition to Jeffersonian policies got off to a fatally bad start in its home territory.

In Washington matters did not proceed without disturbance. A call was issued for a caucus of Republican senators and con-

gressmen to meet and decide who should be the party candidate for President. On January 23 eighty-nine men answered to the roll-call, and of these eighty-three voted for Madison as President and George Clinton as Vice-President. Immediately the Monroe party began an attack upon the principle of the caucus; what right had members of Congress, they asked, to designate the man for whom electors should vote? Many even of Madison's partisans considered the method improper; some contended that eighty-three votes was not a sufficient majority of the 148 Republicans who sat in Congress. The Clintonians continued to push their champion for the Presidency, claiming that "there is not an enlightened man among the Madisonians who does not in his heart prefer Governor Clinton".

Soon after the Republican caucus, moreover, the Quids issued a manifesto attacking Madison in no uncertain terms. They charged him with feebleness, indecision, incompetence and Federalism. They pointed to his collaboration with Hamilton in *The Federalist* as evidence of his shaky Republicanism. They called for a more energetic man to lead the country among the dangers which beset it.

Despite these alarms the election went off smoothly. It was far more a matter of political manipulation than of popular agitation. In Pennsylvania a deal was made among the various Republican factions, which gave the entire electoral ticket to Madison in exchange for local favors; in the final election Federalists were swamped, and the votes of the state were cast wholly for Madison. In New York there was more pulling and hauling among the factions than usual; Clintonians, Federalists and Quids were unable to agree on any fair distribution of spoils, and the electoral vote of the state was divided. Even in New England, the Jeffersonian forces polled a surprisingly large number of popular votes.

The South and West gave no trouble. In Virginia the Quids collapsed. "We the people," wrote an enthusiastic partisan to Madison, "alias the Jeffersonians, and Madisonians I trust in God will forever keep down the Adamits, the Jayits, the Kingits,

the Burrrites, the Pinkneyites, the Monroeites, and Randolphites but of all the Ites the Randolphites bear you the most deadly hatred, but that party is sinking very fast into everlasting disgrace." <sup>9</sup>

In May Jefferson was convinced that Madison would easily be elected. One month later Gallatin, among whose characteristics over-optimism cannot be numbered, was sure that he would be defeated. Gallatin's pessimism grew, and many of the Federalists seem to have hoped seriously for the success of their candidates, Charles Cotesworth Pinckney and Rufus King. But when the electoral votes were counted, it was found that Madison and Clinton had 122, while the Federalists collected only 47. In view of the embargo, and the lack of any sweeping achievement in foreign or domestic policy for four years, the election was a distinct success for the administration. The Republican machine had worked well.

March 4, 1809, was ushered in by a salute of guns from the navy yard and the fort. For days the city had been filling up with visitors, for the inauguration was beginning to be an event worth attending. There had been a great round of entertainment, and each day the deliberations of Congress were heard by curious throngs. The ceremonies of inauguration were held in the new hall of the House of Representatives, which had been in use for about a year. Crowds of people of both sexes pressed into the room, and it proved impossible to reserve seats even for those ladies who considered themselves entitled to such attentions.

Madison was escorted from his house in F Street by the cavalry of Washington and Georgetown; Jefferson rode to the Capitol unattended, and had a seat at the right of the chair of the House. Pale and trembling, Madison arose and made a short, colorless address, then returned to his home escorted by nine militia companies of the District. At the house a large reception was held. The street was crowded with carriages and people, and inside every room was filled. Beside her husband, receiving the guests, stood Dolly, "drest in a plain cambrick dress

with a very long train, plain round the neck without any handkerchief, and beautiful bonnet of purple velvet, and white satin with white plumes. She was all dignity, grace and affability". From Madison's reception, people went on to the White House, where Jefferson dispensed hospitality for the last time.

In the evening there was held at Long's Hotel the first Inauguration Ball. Four hundred people are said to have attended, and the crush was monstrous. Dolly "was almost pressed to death" and the glass had to be broken in the upper parts of the windows for ventilation. First the band played "Jefferson's March" while the retiring President entered with his secretary, then followed "Madison's March" for the entry of the new incumbent, together with his wife and her ubiquitous sister, Mrs. Cutts. Dolly "had on a pale buff colored velvet, made plain, with a very long train, but not the least trimming, and beautiful pearl necklace, earrings and bracelets. Her head dress was a turban of the same colored velvet and white satin (from Paris) with two superb plumes, the bird of paradise feathers. It would be *absolutely impossible* for any one to behave with more perfect propriety than she did."

Poor Madison was excessively tired, hot and uncomfortable. He could not even find a vacant chair, and thankfully retired soon after supper, leaving the rest of the company to dance until midnight. The next day being Sunday, the music stopped precisely at twelve, and the celebration was over.<sup>10</sup>

## CHAPTER XIII

### *NEUTRAL SOVEREIGNTY*

1809-1812

MADISON might well look ill and worried at the inaugural ball. A more hopelessly bewildering situation could hardly have been invented for him by the wit of a novelist. On that very day the embargo had been withdrawn; the civilized alternative to war had failed. According to the accepted code among nations the United States must now fight or be disgraced; she had already endured more insults than were proper for a nation with self-respect. As Secretary of State, as Executive, Madison had in his care the "national honor". He had ably done his duty in maintaining it; he had stayed in the game of international politics and played according to the rules. Now he had reached a point where force was called for. Either he brought up his armies or he retired from the game in disgrace, his nation with him. He realized this, and late in 1808 he and Gallatin drew up a scheme of tactics for the future. The embargo should be continued until June; Congress summoned for May, and if the stakes had not been won by that time war should be declared; the last play in the game, the supreme "instrument of national policy".

But this was America, not Europe. Madison was no autocrat, playing the game of politics with the lives and fortunes of his countrymen for his own pleasure and profit. He could not even make final decisions concerning the true interests of his country. He had the people of the United States as partners, not as pawns, and as the game approached its climax, his partners weakened, and denied that the stakes were worth winning. By repealing the embargo Congress had done a thing which both Jefferson and Madison recognized was inevitable, but afterwards, instead of proceeding to war, they collapsed into fearstruck, drivelling

inanity. They quit the game, as Canning had thought they would, and Madison found himself deserted.

It is almost impossible to avoid using some such figure as this of the game to describe Madison's personal position, for there was simply no point in going to war for any reason but to satisfy the demands of the code of international relations. Cramped and robbed as the United States was by the policies of England and France, she yet had grown immeasurably more prosperous until the embargo, and would continue to do so by remaining at peace and taking what trade was allowed her. The last persons who wished to fight were the owners of ships. Moreover, the sufferings of a few impressed seamen were unimportant as compared with the sufferings of a people at war. There was nothing tangible to be gained by fighting. Even by conquering and annexing Canada we should get nothing which any intelligent man wanted at the moment, and no one dreamed of defeating England on the sea. Madison knew all this, and was moreover a mild man, a man of peace and of scholarship. His political theory, his temperament, his innate decency absolutely forbade his putting himself at the head of a movement to hector and dragoon a reluctant people into war for the sake of their own "honor". Yet he was the head of the nation; on him fell the disgrace of a disgraced people, and the same citizens who refused to join in playing the game denounced him as incompetent and feeble because he did not drive them into a war which they did not want, in order to win a game in which they were not interested.

The truth was that no policy acceptable to reason was possible. Either the United States had to forsake its "neutral sovereignty", regiment its people, and fight like the rest of the western world, or it had to abandon "national honor" entirely. The devastating fact for Madison was that Congress refused to accept either alternative, and left him to find a way out.

Jefferson understood the situation, and immediately after he had thankfully returned to Monticello he wrote his successor a

short letter of sympathy. "I hope and trust you will have a smooth administration", he began. "I know no government which would be so embarrassing in war as ours. This would proceed very much from the lying & licentious character of our papers; but much also from the wonderful credulity of the members of Congress in the floating lies of the day. . . ." This was the voice of a discouraged man, and must have been small comfort to Madison. "It is much therefore to be desired", continued Jefferson, "that war may be avoided if circumstances will admit, nor in the present maniac state of Europe should I estimate the point of honour by the ordinary scale. I believe we shall on the contrary have credit with the world for having made the avoidance of being engaged in the present unexampled war, our first object. War however may become a less losing business than unresisted depredation. With every wish that events may be propitious to your administration, I salute you with sincere affection & every sympathy of the heart".<sup>1</sup> Far from having "credit with the world" for avoiding war, Jefferson and Madison have until very recently been condemned even by the historians of their own country for a feeble and cowardly policy.

In attempting to understand the problem which was presented to Madison, it must be remembered that a policy of leaving commerce to shift for itself was open to at least two objections besides that of appearing dishonorable to the nation. Such a procedure would be entirely to the advantage of England and to the disadvantage of France, for the power which controlled the sea could control United States commerce. Moreover, as the President himself wrote in the summer of 1809, "such an expedient would have involved our ignorant and credulous mariners in the penalties incurred by the mercantile adventurers, without the indemnifying advantages which the latter would secure to themselves".<sup>2</sup> Whichever way Madison turned, he was confronted by fresh difficulties.

As if these troubles were not enough, a cheap political intrigue intervened, which embarrassed the whole future of his government. The Treasury was now working smoothly, and the Presi-



dent made known his intention of putting his ablest adviser, Gallatin, in the Department of State, where there was certainly a need for the best talents available. But General Sam Smith, combining with Leib of Pennsylvania and the renegade Giles, indicated that he would defeat this nomination in the Senate, and if possible drive Gallatin from the government. The stupid cry of "foreigner" was again raised; Madison was forced to put Robert Smith into the State Department, but he insisted on retaining Gallatin at the Treasury. Perhaps it would have been better had he dealt immediately and sternly with this party revolt, yet he had reason to doubt whether the hostility of the Smiths would not be fatal. Robert Smith was probably not wholly incompetent, but he was certainly mediocre, and the President was obliged to undertake many of the duties usually assigned to the Secretary of State.

Republican Senators administered one more rebuff to the new President before they went home. Madison wished to send a minister to Russia, whose position in the European struggle was likely to prove of peculiar interest to the United States. For this post John Quincy Adams was nominated, and flatly rejected by the Senate. Adams had been a Federalist, of course, but had broken with his party at about the time of the embargo. Republican politicians would not yet receive him, and it was ominous for the future of Madison's government that his two most unexceptionable appointments, which every historian must commend, were rejected by the factiousness of his own party.

Affairs were in this hopelessly inglorious state, with neither war nor peace, trade nor embargo, nor any prospect of relief, when as by a miracle Madison was suddenly rescued and raised to the height of popularity. On April 7, 1809, David Erskine, the British minister, received new instructions from Canning, and joyfully hastened to the office of the Secretary of State, for he was very anxious to restore friendly relations between his country and the United States. After quickly settling the "Chesapeake" affair, he made it understood that if the President would issue a Proclamation restoring trade with Great Brit-

ain, he had authority to announce that the Orders in Council would be repealed. This incredible good fortune might with reason have been regarded with suspicion by the American government. What possible motive could there be for the English to back down now, when they had just seen the Americans thrown into confusion, forced to repeal the embargo, weak and helpless? It was true, as Madison was aware, that the Spanish Revolution had not given Napoleon as much trouble as had been hoped, that an English army had recently been forced to retreat, and that the Tory ministry was in a shaky condition. Yet here was a complete reversal of policy; a sacrifice of the dearest economic interests of England. Was not Erskine exceeding his powers?

It would be extremely interesting to know what Madison thought about this, but if he had doubts and fears he did not commit them to paper. Here was a way out of the impossible situation in which Congress had left him. He did not ask for Erskine's instructions or powers, he voiced no objections, he stopped only to write, for Robert Smith, a note or two reserving certain abstract rights of the United States. Then he proclaimed the opening of trade with England as from June 10, and Erskine announced the repeal of the Orders in Council.

Immediately it seemed that all troubles were at an end. The Democrats extolled Jefferson, Madison and the embargo, and chose to believe that the latter had produced this happy effect. The Federalists were left with nothing to grumble at, and were forced to admit that the President had acted with exemplary promptness in accepting the advances of the British. Congress met for its special session on May 22 in a state of peaceful bliss, and the worst the Federalists could do was to blacken the character of Jefferson by comparison with his successor. "I am pretty well satisfied", said Barent Gardenier, "that when the secret history of the last two years is divulged, it will be found that while the former President was endeavouring to fan the flames of war, the Secretary of State . . . was smoothing the way for the happy discharge of his Presidential duties when he should come to the chair. I think it did him honor".<sup>3</sup> There had

been in the past, and continued to be for some time, persistent rumors that Madison was more disposed than Jefferson to come to an arrangement with England, and these rumors were much strengthened by later disclosures made by Erskine. There was no real truth in them. "Nothing could exceed the folly of supposing that the principles and opinions manifested in our foreign discussions were not, in the main at least, common to us", wrote the President to his former chief. Congress adjourned on June 28, and in the middle of July Madison returned to Montpelier, happier than he had been for years.

But the fact was that Erskine had entirely misunderstood the intentions of Canning. The Orders had been repealed, or some of them had, but a blockade of the entire coast of Europe from the Ems to the northern part of Italy had been substituted; a blockade which was bound to be ineffective, and therefore illegal, but which was supposed to sound somewhat better than the old Orders. Erskine had been instructed to make arrangements with the United States about the "Chesapeake" and other matters, but certain conditions were attached to any settlement which should be made. One of these conditions was that the United States should officially recognize the Rule of 1756. Another was that the British navy should be allowed to enforce the American non-intercourse act with respect to France. Erskine had not revealed these conditions; he had persuaded himself that they were satisfied, in the spirit if not in the letter, and that Canning actually desired a settlement of grievances. He was quite wrong. When Canning heard the news of what had been done, he immediately disavowed it, recalled Erskine, and sent out Francis James Jackson to repair the damage to Tory policy.

This Jackson was a man of ability and of breeding, but of a most insufferable arrogance. He was sent about by the Tories to perform just such duties as the present one, in which the undiminished effrontery of English policy was to be maintained. He it was who had been dispatched to Copenhagen, to present the demands of the Cabinet after Nelson had shelled the neutral city, and it was reported that old King George III wondered that

his envoy had not been kicked down stairs by the outraged Danish monarch. The choice of such an emissary indicated the nature of Canning's intentions.

News of the British disavowal arrived towards the end of July, and Madison was obliged to hasten from Montpelier to Washington, where he remained just long enough to issue a proclamation restoring the non-intercourse with Great Britain. He then returned to his farm, and awaited Jackson, who arrived in Washington during September with his wife, children and servants. The British minister enjoyed himself in the country around the capital city, but refused to make any advances to Robert Smith or to reveal what his instructions authorized him to do. Madison took this, and the fact that Jackson seemed in no hurry whatever to proceed with his business, as "sufficient proofs that the instructions are not of a nature to produce a conciliatory effect". He decided not to hurry back to Washington, but to come at his usual time. "From the character of the man, and the temper of his superiors, any thing beyond that politeness which explains itself, and is due to ourselves, is more likely to foster insolence than to excite liberality or good will". The President must have been loath to leave the quiet and peace of Montpelier for the problems which he knew awaited him in Washington.

On the first of October, Madison returned, and on the third Jackson had his first interview. Hearing that this introduction was to be considered as nothing more than the reception of one gentleman by another, Jackson wore "an afternoon frock", and found the President in similar attire. Robert Smith walked over from the office of the State Department to perform the introduction, which he did with great informality. When Smith had left, Madison asked his visitor to sit down, a negro servant brought in some glasses of punch and a seed cake, and the two conversed with the greatest amiability. Other meetings followed and Jackson was charmed with his reception. "I do not know", he wrote on October 24, "that I had ever more civility and attention shown me than at a dinner at the President's yesterday, where

I was treated with a distinction not lately accorded to a British minister in this country". Madison took Mrs. Jackson in to dinner, which greatly pleased the successor of Merry, and Jackson escorted Mrs. Madison. The envoy found the President "a plain and rather mean-looking little man, of great simplicity of manners, and an inveterate enemy to form and ceremony".<sup>4</sup>

Madison soon took the conduct of the negotiations with Jackson out of the hands of Robert Smith and into his own. He confirmed his original belief that Jackson had nothing to offer; the old issues would not be settled. Thereafter he played his man with considerable skill. The British envoy injudiciously hinted that the American government had known that Erskine was breaking his instructions, and had connived with him in the breach. He was assured that Erskine's conduct had given no indication that he was acting without authority; yet Jackson repeated his charge. This time he was answered as follows: "Finding that, in your reply of the 4th instant, you have used a language which cannot be understood but as reiterating and even aggravating the same gross insinuation, it only remains, in order to preclude opportunities which are thus abused, to inform you that no further communications will be received from you".

This was a smart dismissal, and in due course the correspondence was given out to the newspapers. It provoked more argument than any single act of Madison's diplomacy. Federalists charged him with bad faith, and raised the old cry of attachment to France. John Lowell, of the Essex Junto, wrote a pamphlet called "The Diplomattick Policy of Mr. Madison Unveiled", in which he contended, after an acute analysis of the documents, that Jackson had in fact not insulted the United States, that he was entrusted with full powers to begin a new negotiation, and that the President, by a deliberate, subtle and nefarious policy had averted all hope of reconciliation. On the other hand, Madison gained a good deal of credit among Republicans and even among the less inveterate Federalists, and the ensuing elections were by no means unfavorable. The two greatest authorities of modern times upon the period, neither very friendly to Madison,

have also disagreed; Henry Adams defending his action, and Admiral Mahan criticizing it adversely.

To the present writer, it appears that the negotiation was the one success of Madison's diplomatic career. It is quite true that Jackson may not have intended to insult the administration; certainly his remarks were stretched to the utmost extent in order to give a clear impression of offence. This is not the point, however. The important fact is that Madison divined, from the conduct and character of Jackson, that nothing was to be gained by further negotiation, and the publication of Canning's instructions to his envoy has amply confirmed Madison's opinion. Having come to this conclusion, Madison adroitly led his adversary into an untenable position, and for once in the history of these years scored a victory over an English diplomatist. Moreover, by this procedure the disappointing end of a promising affair was made to yield the greatest possible political capital. For once Americans could take some satisfaction in the record of a diplomatic encounter, and no little popular approval of the President's conduct was manifested.

Perhaps it is no great commendation to say that instead of ending in ignominious failure the negotiation produced some domestic political enthusiasm. But in those years such an ending might, for Americans, be accounted a success, and it is clear that without changing the whole principle of his foreign policy Madison could have gained nothing by talking longer with Jackson. To change the principle of his policy meant merely to submit to the requirements of England, and this he had resolved not to do, unless the country so commanded him. But affairs were now back in the old, intolerable situation of March 4, 1809; the future was very dark.

Congress met late in November, and to them Madison reported the course of the negotiations with Jackson, furnishing copies of the correspondence. The message continued with a review of the state of harbor fortifications, of the equipment of the navy, and of the militia, with a recommendation for better organization of the latter. "In the state which has been presented of our

affairs," he went on, ". . . the wisdom of the National Legislature will be again summoned to the important decision on the alternatives before them. That these will be met in a spirit worthy the councils of a nation conscious both of its rectitude and of its rights, and careful as well of its honor as of its peace, I have an entire confidence; and that the result will be stamped by a unanimity becoming the occasion, and be supported by every portion of our citizens with a patriotism enlightened and invigorated by experience, ought as little to be doubted." This was a mild invitation to prepare for war. On January 3, he sent in another message concerning the militia, asking also for the enlistment of a volunteer force of 20,000 men, and hinting at a further revival of the navy. The credit of the Treasury, he remarked, was fully equal to the expense involved. Congress, however, did nothing. It rejected a navigation act directed against English and French vessels, and finally passed, on May 1, 1810, a measure known as Macon's Bill Number 2, which freed the commerce of the country from every restriction, but provided that if either of the belligerent powers should withdraw its edicts, the President might proclaim a revival of non-intercourse against the other. This was, in effect, a complete submission to the will of England.

The events from March 4, 1809 to May 1, 1810, demonstrate Madison's ideas of Presidential powers and duties as thoroughly as those of 1787 reveal his notions about government in general. For almost the first time in the history of the country the Executive played the part which the Constitution had intended it to play. On the one hand, Madison was very active in the technical business of foreign affairs, strenuously upholding in negotiation the rights of his country; rights based in part upon abstract principles of justice and in part upon the historical precepts of international law. On the other hand, he left strictly to Congress the determination of a course of national action: war or peace, submission or retaliation. There was to be no more Hamiltonian domination of the Legislative branch by the Executive, for the day of true republicanism had come. To the mild and

academic man in the White House it was only too apparent that a war for the defence of national honor and foreign commerce was quite a different thing from a truly republican struggle for the freedom of men's own homes and firesides. Certainly the people must not be driven into this insane European war, as the Federalists had tried to drive them in 1798.

But Executive conduct such as Madison's, however consonant with republican or constitutional theory, had grave disadvantages, and has won neither the admiration nor even the approval of posterity. In the first place, it exhibited to foreign nations the incomprehensible spectacle of a government taking a high tone in negotiations and collapsing completely in action, while to historians as well as to Napoleon and Canning, the lofty principles of justice and law avowed by the President in his diplomatic utterances were futile and ridiculous when not backed up by armies and navies. Moreover, his deference to Congress in time of crisis will always appear not as sturdy republicanism, but as weakness. Since the time of Andrew Jackson, at least, the country has expected to follow its Presidents, and those who have not led have been deemed feeble. That is the verdict upon Madison, and it will have to stand, not only as passed upon him, but as applying to his whole theory of the "neutral sovereign". In times of crisis the country must and will be led by someone. Pure republicanism never has been and never will be enough.

Since the representatives of the people had voted to submit, Madison acquiesced, though he still hankered for commercial restrictions. The new state of free commerce disgusted him: "Unless G. Britain should apprehend an attempt from France to revive our non-intercourse against her, she has every earthly motive to continue her restrictions against us. She has our trade, in spite of France, as far as she can make it suit her interest, and our acquiescence in cutting it off from the rest of the world, as far as she may wish to distress her adversaries, to cramp our growth as rivals, or to prevent our interference with her smuggling monopoly".<sup>5</sup> Meanwhile Francis James Jackson progressed northward, dined, wine, and feted by Federalists, able to



report to his government that the country was so divided in sentiment as to offer no danger whatever. Let Canning do as he pleased, the Federalists would see that there was no adequate resistance.

Madison was not the only man who perceived that England enjoyed all the advantage in the new situation. Napoleon quickly grasped the fact that he must do something to change the American policy of free trade to both belligerents. He had set himself to starve England out, and the United States had rendered a considerable amount of aid by her non-intercourse laws, and especially by the embargo, but Macon's Bill Number 2 was disastrous. At the moment, however, he was greatly in need of money, and so his first move was to confiscate the cargoes of American ships which had been detained in his ports upon various pretexts, sell them, and deposit the proceeds in the imperial treasury. By this act, American merchants lost a total of about ten million dollars. Madison was not lacking in words to describe the affair: "The late confiscations by Bonaparte", he wrote Jefferson, "comprise robbery, theft, and breach of trust, and exceed in turpitude any of his enormities not wasting human blood. This scene on the continent, and the effect of English monopoly on the value of our produce, are breaking the charm attached to what is called free trade, foolishly by some, and wickedly by others". The President further instructed General Armstrong that any revocation of the Decrees of Berlin and Milan must be attended with compensation for this latest act, or it would not be considered by the American government.

But Napoleon had not finished. Having robbed the Americans of all that lay ready to his hand, he proceeded to swindle them out of what remained. Taking notice of the new law of the United States, he made the following announcement, which was communicated by a letter from Cadore, the Foreign Secretary, to Armstrong on August 5, 1810. "In this new state of things, I am authorized to declare to you, sir, that the Decrees of Berlin and Milan are revoked, and that after November 1 they will cease to have effect,—it being understood that in con-

sequence of this declaration the English are to revoke their Orders in Council, and renounce the new principles of blockade which they have wished to establish; or that the United States, conformably to the Act you have just communicated, cause their rights to be respected by the English". This remarkable letter ended with one of the most ludicrous paragraphs in diplomatic correspondence: "His Majesty loves the Americans. Their prosperity and their commerce are within the scope of his policy. The independence of America is one of the principal titles of glory to France. Since that epoch the Emperor is pleased in aggrandizing the United States". Napoleon had already shown his love by making off with ten million dollars worth of American property; on the very day of this letter he further demonstrated it by condemning some fifty American vessels still under detention in French ports. This latter act was carried out by a decree, the date and text of which remained secret for ten years.

It is plain to everyone, nowadays, that the paragraph from Cadore's letter which concerned the Berlin and Milan Decrees was susceptible of various interpretations. The words were admirably conceived so that Napoleon, Canning's successor the Marquess Wellesley, and President Madison might each extract from them the meaning most congenial to his own interests and temper. In this contest in textual criticism, Napoleon had a certain advantage in the long run, as might be expected, but the first one to reap benefit was President Madison. He concentrated his attention upon the first clauses, and from them concluded, pardonably enough, that the Decrees of Berlin and Milan would cease to have effect after the first of November. Accordingly, on the second of November, he issued a proclamation declaring that the said decrees had ceased to have effect, and on the same day Gallatin announced by circular to the customs officers that commercial intercourse with England would cease on February 2, 1811, in accordance with the provisions of Macon's Bill Number 2.

Up to the time of the declaration of war in 1812, this act was

the most important of Madison's administration, and the decision which the President made, to regard Cadore's letter as evidence that the Decrees had actually been repealed, was very nearly the most critical of his entire career. There remains no evidence of any Cabinet consultations, and no evidence of the processes of argument or reason by which Madison decided upon his course of action. There were so many obvious reasons for doubting the good faith of the Emperor, so many objections to the form in which the notification to Armstrong had been couched, that it is hard to understand why the President acted as he did. It was the greatest mistake of his political life. It cannot even be excused by the considerations applying to the acceptance of Erskine's propositions in 1809, for in that year non-importation acts were in force, the embargo had just been withdrawn, the Congress had refused to face the problem of determining a new policy, and the Executive was obliged to catch at any straw to avoid disaster. But in 1810 Congress had made up its mind to submit, trade was free, the country quiet and prosperous even though somewhat disgraced, and the Executive in a position where he could well afford to postpone decisive action for a few weeks.

The fact that Madison did not wait, but issued his proclamation at once, indicates an impatience with the state of affairs which is rather interesting. Much as the President might defer to Congress, it is plain that he thought their submission to England intolerable, and seized the first opportunity to start the wheels of foreign policy turning once again. Perhaps he really believed that by playing one belligerent power against the other something might be accomplished peacefully; but it seems even more probable that he expected this latest act to lead to war, as he had expected the embargo to end in war.<sup>6</sup> It is curious to observe how this mild and peaceable little man again and again led his country to the very verge of open warfare, and having got that far, drew aside and refused to take the final step. That was left by the Constitution to Congress.

The man above all others most likely to know the true mean-

ing of Cadore's letter was General John Armstrong, who was just finishing his long and very able term as American minister in Paris. A natural desire to end his mission in the blaze of glory which the repeal of the decrees provided may have caused him to take a more optimistic view of Cadore's letter than he felt at heart. Whatever he thought had no effect upon Madison's immediate decision, for it happened that his dispatches of August 5 had not reached Washington when Madison issued his proclamation. In fact the government's only information of the transactions in Paris had come indirectly through William Pinkney in England. Nevertheless, on August 5, the day of Cadore's letter, Armstrong had written privately to Madison, giving his own account of the matter, and telling some things of extraordinary interest.<sup>7</sup>

According to Armstrong's story, news had arrived in Paris on the 27th of September that the President, upon hearing of Napoleon's seizures of American property, had immediately summoned Congress in extra session, with the object of declaring war on France. This information had produced great excitement; repeated messages had been sent to the American minister inquiring if the report were true, and Armstrong had replied that he thought it quite probable. "To these circumstances, light as they appear", wrote Armstrong, "is owing the *revocation*", and he considered that it proved Napoleon's ambitions to be in Europe, not in America, and that it demonstrated the intention of France to "return to a degree of justice, moderation and good sense".

This was indeed a strange story. Napoleon had built up his "Continental System" with infinite care; he had fought campaigns in every corner of Europe to maintain it; he looked upon it as the very central structure of his policy. For years England and her allies had been expending hundreds of thousands of men and millions in money in an effort to shake this system, to reduce Napoleon to reason and justice. This effort had hitherto been almost a complete failure. In 1810 the Em-



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peror's power seemed more impregnable than ever, his empire had reached its widest extent, his Continental System seemed about to achieve its result, when suddenly the whole scheme was abandoned and the conqueror reduced to submission by the news of a meeting of Congress. If Armstrong believed this, his reputation as a diplomatist was surely ill-deserved; but it might be more interesting to know whether he expected Madison to believe it. Probably he did, for he had no great opinion of the Virginians.

However, he continued the letter to recommend a scheme of future policy. He doubted that France had any real disposition to do the United States justice. "I much fear that on the present occasion, she will content herself by coming within the mere letter of your late law and instruction, that is—that she will revoke her decrees, and make her seizures a subject of future negotiations. It will be for you to decide, how far good faith will prescribe an obedience to the injunctions of the Act of Congress, should England refuse to annul, or so to modify, her Orders in Council, as to leave your maritime rights unmolested. That circumstances may exist, that shall enable you, on the soundest principles, to dispense with these obligations, cannot be doubted, and be assured, that should such circumstances arise, I will not fail to communicate them to you. . . ." The revocation, in other words, ought not to be taken too seriously, and in any case, it will be a poor diplomatist who cannot find pretexts for evading the obligation to resume non-intercourse with England. Perhaps it was a pity that Madison did not receive this communication before he issued his proclamation; yet since it did not change his mind when he finally read it, there is small likelihood that it would have done so before November 1.

The inferences and recommendations of the astute and disingenuous minister must have been less congenial to the mind of the President than those which he received somewhat later from George Joy. Joy was an American merchant who had lived in London for several years, and had kept up a voluminous cor-

respondence with Madison, constituting himself the chief source of unofficial information which the Secretary of State and President had been able to use in Europe. Practically all Madison's letters to Joy have been lost, although they were certainly written, but the merchant remarked several times in the course of his own correspondence upon the essential agreement of their views upon world affairs. In 1810 he had moved temporarily to Gottenburg, and from that town he sent, in September, an enormously long and confused dissertation on Napoleon's revocation of the decrees. The burden of his song was this: "It is neither England nor America that has brought about this change:—it is the People of France and her Allies". Public opinion had forced Napoleon to loosen the bonds which held the trade of the continent, and it would not be long, thought Joy, before the English government would be forced to the same step. Meanwhile, Canning would "chuckle and giggle" over his victory.

This was what Madison wanted to hear; it probably reflects his own opinion with fair accuracy. With the amiable eccentricity of a true republican, he conceived that restrictive commercial policies, political and international chicaneries, and general warfare were abnormalities of human existence. If one could play for time, fend off calamity and escape disgrace, they would all pass away, like fevers from the human body, and mankind would be left to pursue the course of reason and justice. Hence Erskine's proposals in 1809, and Cadore's letter in 1810, did not greatly surprise him. He estimated them not as moves in the game of international relations, but as symptoms of health returning to society. This was not what is considered a "realistic" way of managing foreign affairs, but if anyone troubles to investigate the history of international relations in terms of human values rather than in terms of superficial national antagonisms it may turn out that Madison's management was not without merit. After all, the United States during these years lost little but "honor", and in the sense of the word appropriate to the context, that meant strangely little of permanent value.



## 2

It may be true that Madison was not "realistic" in his foreign policy, but the acquisition of West Florida in the summer of 1810 tended to prove that when his own vital interests were roused he understood the technique of Realpolitik as well as anyone. During 1808, the Spaniards rebelled against Napoleon, and the resulting chaos spread, in course of time, to their colonies. Independence came to South America, revolution to Mexico, new trade and commerce to England, and eventually the United States defined its attitude towards the situation in the Monroe Doctrine. The first plum to fall was West Florida.

In July, 1810, the inhabitants of Baton Rouge, not without the connivance of American authority, revolted against Spain and declared themselves independent. They held a convention, and wrote to Robert Smith asking for annexation to the United States, but announcing that all the former public lands of the territory were to be retained by the people of the territory, and not handed over to the Federal government. Madison scarcely knew what to do. It had been repeatedly and emphatically pointed out to him by Napoleon and by the Spanish that West Florida formed no part of the Louisiana Purchase. The Executive could scarcely march troops into a foreign country for the purpose of annexing it, without appealing to the Congress destined to meet in a few months. Nevertheless, on October 27 he issued a proclamation, announcing that Governor Claiborne of the Orleans territory would take possession of West Florida to the River Perdido in the name of the United States.

It appeared from the words of this proclamation that the territory in question had always been a part of the United States since its purchase in 1803; that the failure to occupy it had arisen, not from any consciousness of a poor title, but merely from a conciliatory disposition towards Spain; that in view of the disturbed and disorderly conditions in the territory, it became the duty of the American government to restore order. The army was therefore marched in as far as the Pearl River,

and the whole section, with the exception of Mobile, annexed to the United States.

This act of Madison's, which had about the same justification as Frederick the Great's invasion of Silesia, shows his character in a curious light. Perhaps he had come to believe his own contentions about the territory. Certainly the Virginian itch for Florida, which had led Jefferson into more than one complication, now involved Madison in the most questionable act of his whole political life. He was undoubtedly influenced by the necessity, as he conceived it, of interfering in West Florida before England should do so, for she had already made such uses of Pensacola as to alarm the administration. From this point of view, Madison's policy can be interpreted as an early example of the attitude which was to find expression in the Monroe Doctrine.

Congress was quite ready to support the administration. On January 3, 1811, pursuant to a secret message from the President, an act was passed authorizing the Executive to take possession of East Florida, if either the local government should consent or a foreign power should attempt to occupy it. Madison appointed two commissioners, one of whom betook himself to St. Mary's and commenced subversive operations around St. Augustine. His instructions were rather vague, and Madison took good care not to clarify them, though the government was kept well informed of what was happening. At the end of a year Commissioner Mathews proudly submitted the result of his labors: a formal cession of East Florida to the United States by a new revolutionary government which had successfully resisted the official Spanish authority. In achieving this end Mathews had used American troops, and had enjoyed the assistance of an American naval officer.

It seems probable that the administration had hoped to repeat its triumph in West Florida. As late as March 28, 1812, it took care that an officer "of great skill and experience" should be at St. Mary's River, "because it will most probably be a scene of active operations". But just at the time of receiving Mathews'

communication, Madison was presenting to Congress and the country the letters of John Henry, which contained, as he thought, evidence of the nefarious plot of England to foment insurrection in New England. Federalist newspapers did not fail to dwell upon the rumors which they had heard from East Florida, and to ask wherein lay the difference between the two projects. Madison could not face the consequences of his Machiavellian proceeding; he repudiated Mathews, and abandoned the whole intrigue. Florida came to the United States by more respectable methods, during the administration of Monroe.<sup>8</sup>

## 3

Madison had decided to accept Napoleon's word that the decrees of Berlin and Milan had been revoked. The decision was momentous, but the President's obstinate adherence to it was almost ridiculous. The Emperor, despite his promise, continued to molest American commerce; he confiscated cargoes and burnt ships; he maintained his Continental System in a manner which left no doubt in the minds of the English and the Federalists that the revocation had been an empty sham. By a process of heroic legal quibbling Madison was able to convince himself that the French depredations were committed not in pursuance of the "international" policy of the decrees, but of a "municipal" policy of France, with which neither England nor the United States had any rightful concern. Nevertheless the lame-duck Congress, which met on December 4, 1810, showed an inclination towards the English view-point, and was loath to confirm the President's November proclamation. It was only by a despotic exercise of parliamentary tactics that the Republican majority eventually gained its object, and forced through the non-intercourse act against Great Britain. A policy had been adopted, and the next move was up to England.

Madison was not happy, and the perplexities of the situation were by no means lost upon him. "It is, as you remark, difficult to understand the meaning of Bonaparte towards us", he wrote

Jefferson, "There is little doubt, that his want of money, and his ignorance of commerce have had a material influence". He looked upon Napoleon's conduct as "folly", and he was right, for the Continental System was disastrous to France. As a means to the immediate ends of the Emperor, however, it was apparently a huge success, and Madison should have known that it was dangerous to count on the foolishness of Napoleon. "On the whole our prospects are far from being very flattering", confessed the President to Jefferson, "yet a better chance seems to exist than, with the exception of the adjustment with Erskine, has presented itself, for closing the scene of rivalry in plundering and insulting us, & turning it into a competition for our commerce and friendship". There was, of course, a possibility that England, if sincerely anxious to restore trade and neutral rights, would accept Madison's interpretation of the Cadore letter as a good excuse for doing so, after which Napoleon's "folly" might be dealt with easily by the two naval powers. If England, on the contrary, were resolved to maintain her decrees for her own independent purposes against the United States, the fact would soon be revealed. It is now known that Spencer Perceval was determined on keeping the Orders in Council as a protection against American commerce; nothing but a change of ministry could alter this policy. But it was to be some time before Madison could be sure of this.

Meanwhile the Federalists protested and the old Republicans under John Randolph ridiculed. Within the Cabinet itself dissension reached a climax. For more than a year it had been publicly notorious that there was friction in the Executive councils. Early in March, 1811, Gallatin resigned. He had been provoked beyond endurance by the faction headed by Samuel Smith in the Senate, Robert Smith in the Cabinet, and Duane in the press, all of whom were nominally Republicans. "A radical and speedy remedy" for these disaffections was absolutely necessary, wrote the exasperated Secretary to his chief, if the whole government were not to collapse. Madison could not afford to lose the

only competent member of the administration, and from the time of this letter he started a reorganization.

First he ascertained, through a third party, that Monroe was willing to abandon his new friends and return to the fold as Secretary of State. This being established, the President summoned Robert Smith, and told him, without mincing words, that the want of harmony in the government was exclusively chargeable to him, that he was indiscreet in language outside the Cabinet, that he was incompetent, and that he would have to resign. The time had come, said Madison, when the President could no longer undertake both his own duties and those of the Secretary of State. The ministry at St. Petersburg was open to Smith as a sweetener for his dismissal, if he wished it. Smith protested as best he might, and resigned, refusing the foreign appointment, and later taking revenge in a public letter attacking the policies of the administration. On April 1, 1811, Monroe took office, and Gallatin remained as Secretary of the Treasury.

There could be no doubt that Monroe greatly strengthened the administration by bringing to it a long experience in foreign affairs, together with natural abilities of a high order. Exactly what influence he exerted upon governmental policy, however, has been much disputed. Thomas Hart Benton said that Monroe "was the effective power in the declaration of war against Great Britain. . . . He brought up Mr. Madison to the war point." Channing states that "Monroe came into office with a serious and firm conviction that the American government must resent the usage which it had received and was receiving from foreign powers, not by arguments and protests merely, but by an appeal to arms. These opinions he held forth day and night and was more responsible than anyone else for the declaration of war".<sup>9</sup> Henry Adams, on the other hand, proved from the testimony of the French and English ministers, and from Monroe's own letters, that the new Secretary of State came into the Cabinet with the intention of tempering Madison's hostile policy towards England, and that the President knew that this was

his purpose. Far from "bringing up Mr. Madison to the war point", Monroe rather resisted the President's anti-English views, until he was eventually converted to them by the older man's influence. The evidence which Adams quotes makes it impossible to agree with Channing's statement.

The fact was that during the months of April, May and June, 1811, neither Madison nor Monroe had decided on a long term policy. The President, however, clung stubbornly to his thesis that the French decrees had been repealed. Perhaps Monroe was more skeptical, but in any case Madison's views in this respect prevailed. Two things were necessary before anything further could be settled; first, information from England, and second, a definite indication of the state of public opinion in the United States. William Pinkney, after ineffective efforts to obtain satisfaction from the British government, had taken "in-amicable leave" in February and returned to his native land, leaving no one of first-rate ability to represent this country in London during the critical months which followed. But despite Pinkney's report, Madison was not sure that he understood the considered intentions of the British.

On July 2, however, there arrived at Washington a new English minister, Augustus Foster, the first since Jackson's dismissal. He brought satisfaction in the "rusty and corrosive affair of the Chesapeake", but his information concerning the Orders in Council was devastating. The substance of his demand, as understood by Madison, was that the United States should require France to admit English goods to French territory, when carried in American ships. When France should agree to this, the Orders would be revoked. This Madison described as "a fitter subject for ridicule than refutation". "England cannot be unaware", he wrote, "that nothing but a termination of the war if even that, will fulfill the condition annexed to their repeal".

Meanwhile, another wave of war fever had swept over the United States. In April Massachusetts actually elected a Republican governor, and turned the cadaverous Pickering out of

the Senate. Soon the newspapers, and especially the "Aurora", began to talk of fighting, and conquering Canada. Most important of all, there had been elected to the new Congress a group of young men mainly from the south and west who were filled with a fresh exuberance of patriotic enthusiasm; who were the first American jingoists.

Within a month after the arrival of Foster, Madison had made up his mind. Believing that he had finally discovered the intentions of England, knowing that there was at last support in the country for a resort to force, he determined to summon Congress for November instead of December, recommend to them immediate military preparation, and proceed, as rapidly as these preparations would permit, to war. In the meantime, although diplomatic channels were to be kept open so that any possibility of a peaceful arrangement might be seized, public opinion in the United States was to be nursed along so that support for the war should be as wide-spread as possible.<sup>10</sup>

This program was followed out to the letter. Congress met on November 4, and on the 5th Madison sent them an uncommonly bellicose message. England, he said, had made impossible demands, and he described them. France had acted almost intolerably, carrying out confiscations under edicts which "though not affecting our neutral relations, and therefore not entering into questions between the United States and other belligerents, were nevertheless founded in such unjust principles that the reparation ought to have been prompt and ample". Under all the circumstances, "Congress will feel the duty of putting the United States into an armor and an attitude demanded by the crisis, and corresponding with the national spirit and expectations". Through the Secretary of War there was communicated to the House the Executive plan, which included the raising of 10,000 men to double the numbers of the regular army, an increase in the navy, a provision for arming merchant vessels, and one for putting forts and harbors in a state of defence.

Madison had done his part. Now the War Hawks took up theirs, and left no doubt in anyone's mind that there was in

Congress a new, militant, fighting spirit. Henry Clay was elected Speaker. Porter, Cheves, Calhoun, Grundy and their allies arose to overthrow the old pettifogging policies and methods of the preceding generation. Nothing could exceed the martial ardor with which these young men raised their voices. They would capture Canada, take Florida, expel the English from the continent, and extend the blessings of republicanism through the whole hemisphere. Their confidence was unbounded, and the army bill, as reported from committee, was passed by the House on December 16, and sent up to the Senate.

But the Senate was old-fashioned. William B. Giles was bent upon humiliating Madison, the Smith faction was recalcitrant, and there were enough Federalists to provide effective support. They adopted the curious device of raising the number of new men for the regular army from 10,000 to 25,000, which set a goal manifestly impossible of achievement, since it was doubtful whether even 10,000 men could be raised for a five-year term of service. Sending this maltreated bill back to the House, they succeeded in getting it through on January 6, 1812.

On January 20 the administration submitted another item in its program when Gallatin sent a message to the House concerning the financing of the proposed war. He asked for the doubling of existing import duties, the imposition of excise taxes to the amount of \$5,000,000, and the reimposition of the old salt tax. Immediately, the fervor of the War Hawks cooled. Some accused the administration of lacking patriotism because they had brought such a subject up at such a time; others insisted that their own generation should give the blood, and succeeding ones the treasure. For a month they staved off serious action on money matters. Meanwhile they passed a bill empowering the President to accept the services of militia, but they refused to vote an addition to the navy. In March they authorized a loan of eleven million dollars at six per cent.

Madison was disgusted. "With a view to enable the Executive to step at once into Canada", he wrote Jefferson, "they have provided after two months delay, for a regular force requiring



12 to raise it, and after 3 months for a voluntary force, on terms not likely to raise it at all for that object. The mixture of good & bad, avowed & disguised motives accounting for these things is curious eno' but not to be explained in the compass of a letter". The plain fact was that the Twelfth Congress, despite the magniloquent vociferations of the War Hawks, was no more competent to set about hostilities than the Eleventh. In the middle of March they were, if anything, further from a declaration of war than in November. The country was divided, the Treasury empty, and the army bill a farce.

It was probably in this period that Monroe's influence in favor of war was important. During the preceding summer he had followed the President. Madison had been responsible for the decisions, and had started the course of events which was to lead to war. But the President was, as we have said, a man of peace, and a man who would not usurp the functions which had been assigned by the Constitution to Congress. He had detected a definite movement towards war in the opinion of various sections of the country, and this had permitted him to adopt the policy which, from a purely Executive, international, point of view, had been practically inevitable ever since the failure of the embargo. But the conduct of Congress during that winter of 1811-1812 perhaps caused him to hesitate, and it would seem probable that the greater physical vigor and determination of Monroe sustained his failing purpose. For Gallatin was probably disposed to seek again for peace.

Whatever may have been his doubts, Madison remained outwardly resolute. He attempted to rally public opinion by his purchase and publication of the Henry papers, which were the reports of a spy sent to New England by the governor of Canada. These documents were supposed to prove the existence of a plot against the union by Canadians and Federalists, but they actually contained little to the detriment of either, and the publication fell rather flat. Meanwhile the democratic newspapers were doing their best to promote the war spirit. In large black figures they printed the number 6257, being the number of

American sailors reported to have been impressed by the British, and they wrote screaming editorials calling for an invasion of Canada. Federalist papers retorted with comments on the "burning" love of France for America, as evidenced by her method of destroying Yankee ships. And so time passed.

Finally news arrived of a change in the English ministry. This gave hope for a peaceful settlement, and in fact, if Madison had kept a shrewd diplomatist in England, he might have foreseen that the Orders must soon be abandoned. For the President, however, the only information came in the form of a letter on May 22 from the new foreign minister, Lord Castlereagh, to Foster, in which, as Madison later wrote, it was "distinctly & emphatically stated that the orders in Council, to which we had declared we would not submit, would not be repealed, without a repeal of internal measures of France, which not violating any neutral right of the U. S. they had no right to call on France to repeal".<sup>11</sup> In 1827, Madison declared that this letter, which Foster showed him, was the "more immediate impulse" to the declaration of war.

There was still a profound difficulty. On the same ship with Castlereagh's letter arrived the news of fresh and terrible French depredations on American ships. For three days thereafter, according to the French minister, "nothing was heard but a general cry for war against France and England at once". In despair, Madison wrote on May 25 to Jefferson: "the business is become more than ever puzzling. To go to war with Eng<sup>d</sup> and not with France arms the federalists with new matter, and divides the Republicans some of whom with the Quids make a display of impartiality. To go to war ag<sup>st</sup> both, presents a thousand difficulties, above all, that of shutting all the ports of the Continent of Europe ag<sup>st</sup> our Cruisers who can do little without the use of them. . . . The only consideration of weight in favor of this triangular war as it is called, is that it might hasten thro' a peace with G. B. or F. a termination, for a while at least, of the obstinate questions now depending with both. But even this advantage is not certain. For a prolongation of such a war might

be viewed by both Bellig<sup>ts</sup> as desirable, with as little reason for the opinion, as has prevailed in the past conduct of both". Such was the President's state of mind, less than a week before Congress received his war message.

It seemed indisputable that a war had to be fought against someone, and there was no reason and no popular support for a war with France instead of England. According to Madison's thesis the depredations of France, unjust as they were, were irrelevant to the quarrel with England. And, after all, the War Hawks were really interested not in maritime affairs, but in the conquest of Canada. Fortified by their braggadocio, and also no doubt by the firmness and resolution of the Secretary of State. Madison soon decided to "throw forward the flag of the country, sure that the people would press forward and defend it". Had he given closer attention to Federalist newspapers his confidence in the people's patriotism might not have been so great, but a deputation from Congress had informed him that a majority of that body would vote for war if he would recommend it, and so on June 1 he sent in his decisive message.

As Henry Adams remarked, from a diplomatic point of view it had long been more difficult to find causes for peace than for war. The list of grievances recited in the President's message was entirely adequate, and was remarkable only in including the impressment question, which had for some time been absent from other representations of American policy. Only a brief mention was made of the activities of British agents among the Indians of the northwest, and naturally Madison could not allude to a conquest of Canada. Thus the stimuli which actually produced war were such as could not be avowed by the government, while the underlying causes for fighting had long since become such an old story to the American people as to afflict them mainly with boredom. It was not a promising beginning for a national struggle.

On June 3 the House received from Committee an able war manifesto, drafted by the belligerent Monroe, and on the 4th the bill passed by a vote of 79 to 49. The Senate, after long deliber-

ation, mustered 19 votes for war against 13 in opposition. On the evening of the 17th there was the usual large gathering in the drawing room of the White House. Both the French and British ministers were present, but not a single Federalist. An observer reported that Madison "appeared all life and spirits".<sup>12</sup> Next day he signed the declaration of war.

#### CHAPTER XIV

### *WAR AND PEACE*

1812-1817

IT remained to be seen whether a government characterized by the limitations upon its powers and the mildness of its Executive officer could succeed in carrying out the most arduous and energetic of all pursuits of state. Unless the President should put aside his high republican notions and assume a vigorous leadership it was to be feared that the conduct of the struggle would be lamentably ineffective. Calhoun was convinced that Madison was incapable of rising to the occasion. But the President grasped, at least theoretically, what was required of him. He had lived through the Revolution, as the War Hawks had not, and he knew quite well that Executive dominance was inevitable in war time. As Commander-in-Chief of the Army and Navy he was personally responsible for their activities, and no sooner had he issued his proclamation than he put on a little round hat, with a huge cockade, and visited the offices of the War and Navy Departments, "stimulating everything in a manner worthy of a little commander-in-chief".<sup>1</sup> Unfortunately, it required more than a cockade to make Madison a heroic figure, and time was to show that something more than good intentions were necessary in a commander-in-chief.

Since the President knew little or nothing of military matters, their conduct would obviously depend upon the loyalty and efficiency of his advisers. The Secretary of War, William Eustis, was a respectable physician from New England, a valuable politician, and a man who had learned something from Revolutionary experiences, but his excellent qualities of mind were not calculated to inspire confidence in Congress. His department was understaffed, consisting only of the Secretary and a few clerks. As war approached it became obvious that this organization would have to be strengthened, and the administration asked

that two assistants be given Eustis. But politicians in Congress, and the factious group headed by Duane and the "Aurora" objected, declaring that any man of competence could handle the department as it was, and that two "crutches" were made necessary only by the decrepitude of the man they were to support. Consequently, Eustis had to struggle along against intolerable odds, and attempt to conduct the army in war time with a staff which had been proved inadequate even in peace.

Henry Dearborn, the senior major-general, whom Madison had appointed in January, 1812, was of the same age as the President, and had been a deputy quartermaster-general in 1781. He had been Secretary of War under Jefferson, and had apparently impressed Madison by his soundness of judgment and courageous qualities. He was politically harmless, and since he was a New Englander, there was some hope that he might mollify the adverse sentiment in that part of the country, but no one contended that his military talents exceeded mediocrity. Probably the most competent of those in higher command was General William Hull, the only officer who had ever led a regiment against an enemy. But Hull was old, tired, and anxious to settle down in peace after an arduous life, and he served only after trying to evade the duty. Of Brigadier-General James Wilkinson, it is sufficient to say that he was undoubtedly one of the greatest villains in American history, and the confidence which Jefferson and Madison persisted in placing in him is almost inexplicable. Madison explained the country's low state of military efficiency by calling it the inevitable consequence of thirty blessed years of peace, and it can truthfully be said that the army learned its business rapidly. Within a few months Eustis was succeeded by General John Armstrong, a man of military knowledge and experience, while the ludicrous incompetence of such field officers as Smyth and Van Rensselaer soon gave way to the energy and effectiveness of Jacob Brown, Winfield Scott, W. H. Harrison, and Andrew Jackson.

The navy was under the general supervision of a southerner named Paul Hamilton, and the achievements of the few ships

which engaged in combat were such as to make this branch of the service a credit to the government. But though some considered that its efficiency was due to the experience gained in the Mediterranean wars, and others attributed it to the administration of Secretary Robert Smith, no one gave Hamilton any credit. He shared with Eustis a reputation for fatuous incompetence, and resigned his position at about the same time the Secretary of War retired. Despite the rapid improvement in the calibre of his men, Madison later complained of the difficulty he had experienced in finding anyone to undertake military and administrative duties. Having discarded all those whose political principles, geographical abode, personal animosities and so on, rendered them unsuitable, the choice was decidedly limited, and of those eligible, a large number refused to undertake the duties asked of them.<sup>2</sup> It was apparent that whatever the excellencies of an "extensive republic" in preventing governmental tyranny, its virtues in warfare were open to question.

The most serious charge which can be made against the administration is that of poor preparation. Madison was obliged to answer this criticism during the war itself as well as afterwards, and it has been reiterated by historians ever since. There was, of course, much truth in it, but the President's side of the question deserves greater consideration than it has received. "Preparations in all such cases are comparative," he wrote in 1827. "The question to be decided is whether the adversary was better prepared than we were; whether delay on our side, after the approach of war would be foreseen on the other, would have made the comparative preparations better for us. As the main theatre of the war was to be in our neighborhood, and the augmented preparations of the enemy were to be beyond the Atlantic, promptitude of attack was the evident policy of the U. S. It was in fact not the suddenness of the war as an Executive policy, but the tardiness of the Legislative provisions, which gave whatever colour existed for the charge in question."<sup>3</sup> Continuing, he pointed out that on November 5, 1811, he had sent to Congress a recommendation for military prepara-

tions, nicely calculated for the necessities of the time. Not until the middle of January did Congress pass any such measure, and it then so increased the scope of the bill that by no possibility could the army be raised within the critical season. "It may be safely affirmed that the force contemplated by the Executive if brought into the field as soon as it might have been would have been far more adequate to its object than that enacted by the Legislature could have been if brought into the field at the later day required for the purpose."

This contention of Madison's was just. Congress, which abounded in vociferous oratory and expansive sentiments, was so ridden by various political forces that it could pass neither an army bill nor a finance measure which contained any sense. The young representatives from the frontier underestimated the difficulty of conquering Canada, a state of mind which Jefferson and many others shared, but it was really the political currents in the Senate which defeated any sound policy of preparedness. There seems no reason to doubt that such a force as that planned by Madison's advisers could have conquered a substantial portion of Canada, if competently led.

If this be true, it indicates even more strongly the real shortcomings of Madison as a war president. They lay not in his ignorance of military affairs, nor in the misfortunes of his early appointments, but in his failure to exert a powerful moral and political leadership. Doubtless he showed poor judgement in proceeding to a declaration of war when he knew that New England desired peace; but an even more obvious error was to enter the conflict without a properly disciplined party of his own. The fact was that Madison had allowed himself to be carried along by a current of sectional politics which he chose to believe was the main stream of public opinion. For eleven years he had been working on foreign policy, constantly encountering English arrogance, everlastingly irritated and puzzled by the chaotic condition of world affairs, fully realizing that never short of actual invasion had a nation had more ample causes for fighting than the United States had in 1812. But he never quite realized



that few if any Americans cared as much about national honor and freedom of the seas as he did. There was only one element of public opinion solidly in favor of the war, and that was the jingoistic western enthusiasm for conquering Canada, and for quelling the Indian tribes. To this element Madison, with amiable if inappropriate honesty, refused to appeal, and as a result his war-time manifestos were largely ineffectual. Only when in the later months of the conflict he was able to refer to English outrages and American victories at sea could he rise to anything faintly worthy of the name of propaganda. The war therefore became "Madison's War" and a large section of the population found their sympathies more with England than with the United States, while the President, who had so greatly feared the rule of a faction, found himself ruling at the head of one.

It was really a strange situation. Madison, well aware as he was that diverse interests rather than lofty principles influence history, found himself depending upon the lofty principles of national honor and patriotism to sustain him in a foreign war. He had "thrown forward the flag of the country", after proving pretty convincingly in his writings that such a procedure would be hopeless unless the proper interests were at stake. His theories rather than his hopes triumphed, and New England amply demonstrated that no amount of political humiliation could persuade it to fight when there was more money to be made in peace. Thus Madison failed as a War Executive, because he did not understand either the necessity or the method of forcibly combining interests and ideals into a great national emotion. The war of 1812 was not a national crusade like that of 1917, but the difference lay not in causes or justifications, but in the manipulation of national opinion.

From the moment war was declared, Madison knew that the Federalists would oppose it. Three days after issuing his Proclamation, he wrote to Jefferson: "It is understood that the Federalists in Congress are to put all the strength of their talents into a protest against the war, and that the party at large are to be brought out in all their force".<sup>4</sup> The effect of their opposition

was soon felt by Dearborn, who found it so impossible to raise volunteers in Massachusetts that he was obliged to neglect the offensives planned against Montreal and Niagara, and by neglecting them, to leave the Canadian commander free to deal with Hull at Detroit. Hull surrendered on August 16, and the war, instead of being quickly ended by a conquest of Canada, settled down into a long and tedious affair, in which Madison's worst enemies were not the English, but the New England Federalists, and the malcontents of his own party.

Federalists were soon fortified in their opposition by the announcement, which arrived not long after war began, that England had repealed her Orders in Council. Since these were the chief ostensible cause of conflict, it might have been expected that negotiations could immediately have been opened. The English commander did in fact propose an armistice, on terms which Madison refused. To Congress he explained on November 4, 1812, that the war was now being fought over the question of impressments, and that arrangements for peace which did not contain a settlement of that matter would not be acceptable to the administration. This was consistent with the policy of Jefferson's government, which had always refused every agreement leaving the question of impressments open, and no one could deny that the matter was a proper one to fight about, if one wished to fight. But it was obvious that the citizens of the United States who were actually concerned in merchant shipping did not want to fight. It became the prevalent opinion among about half of the inhabitants of the Eastern States that the war had been made in pursuit of an alliance with France, and that the administration was systematically attempting to destroy American commerce in the interests of American agriculture. The repeal of the Orders in Council, and the failure of Napoleon to relax his restrictions upon American trade, seemed to confirm this view. Many persons in New England began to talk of secession.

Early in 1813 David Humphries, formerly one of Washington's aides, wrote to Madison expressing these sentiments, and

the President took the opportunity thus given him to make an extensive reply. "How is it possible that any man in his senses should attempt or wish to annihilate the foreign commerce of such a Country as this;" wrote the exasperated Chief Executive, "or that such a policy should be supported by that portion of the Country, which thinks itself, as much more interested in commerce than the other portion, as the cargoes of ships are more valuable than their freight?". Continuing, he discussed secession: "I have never allowed myself to believe that the Union was in danger, or that a dissolution of it could be desired, unless by a few individuals, if such there be, in desperate situations or of unbridled passions." He pointed out that the effects of secession would be disastrous to the eastern states, who would be obliged to form an alliance with England, and would find themselves direct rivals of their new friends at the same time that they lost the opportunity to profit from the carrying trade of the southern and agricultural sections of the Union. "The great road of profitable intercourse for New England, even with old England, lies through the Wheat, the Cotton & the Tobacco fields, of her Southern & Western confederates. On what basis could N. E. & O. E. form commercial stipulations. On all the great articles they would be in direct rivalry. The real source of our Revolution was the commercial jealousy of G. B. towards that part of her then Colonies. . . ." Nothing better illustrates the character of Madison than the fact that in the midst of war he replied to Humphries and the secessionists not with Alien and Sedition Acts, but with singularly lucid argumentation. His words, of course, were entirely wasted.

Meanwhile many other troubles beset him. General Armstrong entered the Cabinet early in 1813, and immediately infused a new life into the army. His intention was to direct military affairs himself; to unify the command, and if necessary to take the field in person, a scheme which despite certain obvious disadvantages would probably have had good results. But he soon encountered the sensitive jealousy of Monroe, who fancied himself as a military man, and who protested to the President

against Armstrong's overweening ambitions. Madison finally ordered Armstrong to remain in Washington, and thereafter was obliged to devote much of his time to soothing the differences between the Secretary of State and the Secretary of War. As if this were not bad enough, Armstrong appointed Duane, arch-enemy of Gallatin, to a post in the quartermaster's department, and so exasperated the invaluable Secretary of the Treasury that he asked to be relieved of his position.

In the midst of these internal complications, news arrived that Napoleon had been defeated in Russia, and his army destroyed. It became apparent that the United States was in for a difficult time, and the President hastily and thankfully accepted the offer of the Emperor of Russia to act as mediator. James Bayard and Albert Gallatin were appointed to join John Quincy Adams in St. Petersburg, their nominations were sent to the Senate at a special session in May, and the exhausted President took to his bed with his old complaint of a bilious fever, remaining for several weeks in a condition between life and death. A further humiliation was reserved for him while he lay ill, for the Senate, which showed a rare talent in hindering every proper measure and speeding every improper one, took occasion once more to attack Gallatin. After due reflection they decided that a man could not at the same time be Secretary of the Treasury and Envoy in St. Petersburg. This was reasonable enough, but there was plenty of precedent for such a combination of duties, and the real motive of the Senate's action was merely that of annoying the administration. With still more stupid factiousness, they rejected Madison's nomination of Jonathan Russell as Minister Plenipotentiary to Sweden. In all Europe the Baltic countries were the only ones showing the least symptom of regard for the United States, but the Senate was entirely concerned with its party strife. When the President recovered, they attempted to send a deputation to discuss the matter with him, but Madison explained that it was not his business to haggle with committees representing co-ordinate branches of the government.

On July 2, 1813, Madison had so far recovered from his illness as to be able to "take bark every hour and with good effect". Dolly wrote: "It is three weeks now I have nursed him, night and day,—sometimes with despair! but now that I see he will get well I feel as if I might die myself from fatigue".<sup>5</sup> On August 2 Congress adjourned, and on the 9th the President was able to go to Montpelier, where for a month or more he suffered from occasional "returns of fever", and for several weeks thereafter recovered his strength only gradually. Thus for the entire second summer of the war the country was without even a nominal leader. In the Cabinet Armstrong and Monroe, each competent enough in his own department, quarrelled and bickered. Gallatin was in Europe, and even had he been in Washington his political influence had sunk so low as to be practically valueless. The wonder is that the war was fought at all, but despite the misfortunes of the government things went fairly well. Even Congress, distracted as it was with political squabbles, brought itself for the first time since war had been declared to pass a special tax bill.

Yet the disaffection of New England was steadily growing. Daniel Webster appeared in Congress during 1813 for the first time, and introduced a series of resolutions concerning the conduct of France with the sole purpose of harassing and vexing the administration. Other Federalists reached the verge of treason in their denunciations of the war. Throughout the northeast, town meetings were held which adopted formal resolutions against the conflict; the legislature of Massachusetts under the guidance of Josiah Quincy expressed itself as unable to praise the victories won in such an unjust struggle; food, clothes and money, denied by the New Englanders to their own government, were sent across to the British armies in Canada; and Yankee ships made profitable voyages under licenses supplied by the Governor of Bermuda.

In December, 1813, Madison presented Congress with some of these facts. "Supplies of the most essential kinds find their way, not only to British ports and British armies at a distance,

but the armies in our neighborhood, with which our own are contending, derive from our ports and outlets a subsistence attainable with difficulty, if at all, from other sources. Even the fleets and troops infesting our coasts and waters are, by like supplies, accommodated and encouraged in their predatory and incursive warfare." He requested that an embargo be laid on exports, and Congress speedily acquiesced. Laws of such stringency were passed, and enforced, that the inhabitants of Nantucket were nearly starved, and had to be relieved by special enactment.

But the embargo did not materially hurt England, and it further enraged the New Englanders. Protests became more acrimonious. In April, 1814, the whole policy was once more abandoned, and for the last time the strange notions of Virginia surrendered to the commercial facts of the times. Yet the war continued, while every passing day proved that patriotism without self-interest was not enough.

In January, 1814, Madison accepted an offer from Lord Castlereagh to open direct negotiations for peace. J. Q. Adams, Bayard, Russell, and Henry Clay were nominated as commissioners, and later Gallatin, having resigned the Treasury, was added to the group and confirmed by the Senate. Shortly afterwards Napoleon's power collapsed, and the English were able to blockade the American coast with fearful effectiveness, and to send across the ocean some of the regiments which had been hardened in the continental campaigns. The effect of all these various factors upon the President is unrevealed by any evidence, but there is among his papers a memorandum of two Cabinet meetings held towards the end of June, 1814, which eloquently demonstrates the degree to which the administration had lost its courage. "Shall a treaty of peace, silent on the subject of impressment be authorized?" asked the President of his advisers, and on June 27 each one replied "Aye". Thus the last remaining "cause" of conflict was abandoned. As it happened, this decision probably did not reach Ghent before the negotiators, on their own responsibility, had signed a treaty containing

not a word about impressments. But before that treaty arrived Madison was obliged to pass through the greatest of his many humiliations; to see the Capitol in flames, and to be jeered by the natives of his own Virginia.

## 2

Civilian inhabitants of the city of Washington were accustomed to complain that no steps whatever were taken to fortify the city against attack. The British fleet stood off the southern coast, sailed up Chesapeake bay, sent marauding bands of sailors ashore, and generally made a nuisance of itself. Several times such bands had approached the vicinity of Washington, and it was plain to every citizen that there was nothing to prevent a rapid and successful attack whenever the British should choose. But military men like Armstrong looked at the matter differently. They knew that the city was of no strategic importance whatever, and that an attack upon it could be no more than a sporting expedition for British sailors. No commander was likely to risk many men in such an expedition, and the militia could easily be collected in time to ward off any attack that was likely to be made.

But in one way or another, American troops had contrived to burn the villages of Newark and York in Canada, and although it would appear that plenty of reparation had already been exacted on the shores of Chesapeake Bay, the British Admiral Cochrane nevertheless received orders to retaliate more heavily. At the same time General Ross arrived from the Peninsula with instructions to create a diversion in the Chesapeake region in order to help the expedition of Prevost against New York. Early in August, 1814, the British fleet appeared in the Chesapeake, seeking what it might devour, and drove Joshua Barney with his gunboats to take refuge in the Patuxent River.

By this time the American government had taken action for the defense of Washington. A new military district had been constituted, and on July 5 General William Winder was ap-

pointed by Madison to take command. Armstrong had recommended another individual, but Madison insisted on Winder, apparently because his excellent personal relations with the governor of Maryland might be expected to facilitate the raising of militia. Winder spent six weeks riding about the district, surveying the terrain, and raising troops, but by August 18 his efforts had resulted neither in the construction of any fortifications nor in the raising of more than 250 militia. Still, there was no reason to fear immediate danger, and Armstrong himself took but little interest in the business.

Unfortunately, Madison happened to pick August 13 to present Armstrong with a paper remonstrating against the frequency with which that officer made regulations without consulting the President. Madison pointed out to him that "In general the Secretary of War, like the Heads of the other Departments . . . acts under the authority & subject to the decisions & instructions of the President". Of course there were many routine matters which could be carried out without receiving the previous and positive sanction of the President, but Armstrong had not sufficiently kept in view the distinction between major and minor transactions, and had issued certain general orders of great importance without even informing Madison that he was doing so. In May he had given a commission as Major-General to Andrew Jackson, upon the resignation of Harrison, with the implicit consent of Madison, but without his express instructions. This had turned out to be embarrassing to the President, and was perhaps the chief reason for his remonstrances. For the future, rules were laid down to govern, as far as possible, the relationship between the President and the Secretary of War. There was nothing very severe about the instructions, and certainly nothing improper, but the effect was to make Armstrong rather sulky during a critical period in the history of the Administration.

In these circumstances news arrived, on August 18, that the enemy had landed at the town of Benedict, on the Patuxent, for purposes unknown. Baltimore was the obvious point of attack,



but the Washington militia was summoned immediately. On the 20th the British began to march up the Patuxent, and on the evening of Sunday the 21st they camped at the town of Nottingham, a few miles southeast of Washington. The city was by this time much excited, for the British had a force of between four and five thousand men, which was far greater than had been expected. The mayor issued a call at noon for volunteers to go on the following day and build earthworks near Bladensburg, and the papers of the State Department were moved to Leesburg in Virginia. Madison was still unable to believe that the enemy would actually attack the city.

During Monday the panic grew, and the greater number of citizens loaded their belongings onto carts and left the city. The enemy marched only seven miles further to Upper Marlboro, which was nearly due east of Washington. Winder rode out with a small force and observed this march, but did nothing to obstruct it, and the British never saw an American soldier. The American militia camped that evening at a place called the Woodyard, between the British troops and the city, and at about eight o'clock in the evening Madison and members of his Cabinet went out to the camp to spend the night.

On the morning of Tuesday the 23rd Madison reviewed the American forces and found their spirit excellent. News concerning the enemy was scarce, but it indicated that they would remain at Marlboro for the time being, and the President returned to Washington where Dolly, alone in the White House, had busied herself in collecting the papers of the Cabinet and packing them in trunks against a hasty departure. During the day there was a brief skirmish, and the Americans retired into the city, leaving the British encamped near the scene of the fight. By this time Winder had made his principal blunder. Unless the British wished to attempt the impossible task of entering Washington from the east over a quarter of a mile of wooden bridge at the Navy Yard, they would certainly march to the northeast, cross the narrow stream at Bladensburg, and turn south, approaching Washington by an excellent road. But

Winder seemed paralysed with anxiety for the Navy Yard, possibly because he expected the approach of British ships. He withdrew his militia into the city, where many of them went to their homes, and utterly neglected the critical point of Bladensburg.

Early next morning Madison received an agitated note from the general, requesting his immediate presence and advice. Sending this communication along to the rest of the Cabinet, the President went on horseback to Winder's headquarters. An hour later Armstrong appeared, but by that time news had come that the British were marching to Bladensburg, and the ubiquitous Monroe had gone ahead to look the ground over, while Winder collected his forces and sent them off. Barney, who had long since blown up his gunboats and joined the land forces with his four hundred sailors, eventually got permission to go along too, though Winder wished to leave him at the Navy Yard.

While the British forces and the American militia were racing to Bladensburg on opposite sides of the Eastern Branch, the Cabinet again took to horse. Campbell observed to the President that Armstrong was showing undue reserve about the whole affair, and recommended that something be done to arouse his interest. Madison accordingly rode beside the Secretary of War and asked him to fulfill his duties without any scruples or embarrassments arising from the paper of instructions which he had received. He further requested Armstrong to go to Bladensburg and make any suggestions about the plan of defence which might be necessary, and he promised to come along himself in order to avoid any conflicts of authority between the Secretary of War and the general in the field. Armstrong immediately left for Bladensburg, and Madison, after visiting the Marine Barracks, followed with Rush, Campbell and Jones.

Soon after midday Madison and his companions reached Bladensburg, and very nearly blundered into the midst of the enemy troops. Being warned just in time, they turned about and joined Winder and Armstrong, and Madison asked the Secretary if he had offered any suggestions. When Armstrong re-

plied that he had not, Madison remarked that there was still time to do so, whereupon Armstrong rode up to Winder and spoke a few words with him. The President wished to join the conference, but his horse became unruly, and he never knew what Armstrong had actually contributed to the plan of defence. Soon afterwards the battle commenced, and Madison "observed to the Secretary of War and Secretary of State that it would be proper to withdraw to a position in the rear, where we could act according to circumstances; leaving military movements now to the military functionaries who were responsible for them. This we did, Mr. Rush soon joining us. When it became manifest that the battle was lost; Mr. Rush accompanying me, I fell down into the road leading to the city and returned to it".

In fact the militia scarcely waited for the battle to begin before running away, as Armstrong had morosely predicted they would when faced by regular troops. By two o'clock in the afternoon a confused rout of citizens, generals, and Cabinet members was streaming back along the road to Washington, and Madison dejectedly rode his horse in the midst of them. The British followed, meeting with no resistance worthy of the name until they reached the district line. There Barney had drawn up his guns to command the road, and as the enemy approached he opened fire. For nearly two hours the four hundred sailors maintained an energetic resistance against the entire British force, and so won the esteem of their opponents that the captured Barney was treated with courteous civilities far exceeding those which his rank called for. Thanks to his efforts the militia was able to escape towards Georgetown, and the British did not enter the city until early evening. They camped about a quarter of a mile east of the Capitol.

While the fighting was going on, Mrs. Madison continued her efforts in collecting valuables from the White House. By three o'clock, when Madison arrived, she had departed with several wagon-loads of baggage, including the Stuart portrait of Washington, and she spent the night in the encampment of the defeated army. The President reached his home to find a dinner

laid ready for him on the table, but he left it for the English, and retired across the Potomac at about six o'clock. Thence he travelled by carriage about ten miles into Virginia, accompanied by Rush and Colonel Mason, and spent the night at an inn.

During the evening the British set fire to the Capitol, and to some private houses from which shots had been fired. A small detachment, including General Ross and Vice-Admiral Cockburn, proceeded to the White House, ate Madison's dinner, forced a young citizen to drink a toast to "Jemmy", then collected all the furniture into the drawing-room and set it on fire. The Navy Yard was burnt by the Americans themselves, and the wretched inhabitants of the city watched the three conflagrations with abject despair. A severe rainstorm greatly lessened the destruction.

Next day, Thursday, the British resumed their depredations. The office of the *National Intelligencer* was wrecked, the bridges were demolished, and a systematic attempt was made to destroy all public buildings. Dr. Thornton saved the Patent Office by representing it as a museum of the arts and sciences, and the British spared many other structures when told that a general burning of the city would probably result if they were set on fire. Private property was respected, and no civilian was injured. Cockburn enjoyed himself hugely; he rode up and down the streets on an old white mare, followed by its foal; he cracked jokes about "Jemmy", and jovially mocked the inhabitants who had remained in the city. Shortly after noon there was a mild sort of tornado, which tore the roofs off many buildings and alarmed everyone. Immediately after it had subsided General Ross began preparations for departure, for he was in fact nearly as much afraid of the Americans as they were of him, and he failed to realize that the demoralization created by his invasion was far too great to permit any reprisals. About nine o'clock in the evening the army marched away, returning to their ships without the least trouble.

Meanwhile the unfortunate President was dodging about the Virginian countryside. During the morning he moved on about

six miles and joined his wife at an inn, where they stayed during the tornado. Rush remained with him throughout his travels, and Monroe, who spent most of his time with the army, visited him once during the day, but Armstrong and Campbell went to the town of Frederick, which had been appointed as a place of rendezvous for the Cabinet, and remained there until the troubles were over. Thursday night was a hard one for Madison; despite the fact that the British were miles away, and bent only upon returning to their ships, a false rumor of their approach caused him to leave the inn and retire to a hut in the woods. He was not spared the insults of the people, many of whom blamed him for their misfortunes.

Friday morning he planned to join Winder and the army at Montgomery Court House, but he did not arrive there until six o'clock in the evening, by which time the army had left. Madison went on to Brookville and spent a comfortable night in the house of a Mrs. Bently, with a numerous troop of cavalry encamped on the premises. An observer reported that throughout these unhappy days Madison appeared perfectly tranquil, and not even much dispirited. In fact he suffered much less than most of the monarchs of western Europe who were obliged to fly from their capitals in these years; it was a period in which scarcely any ruler was safe in his bed. Yet the reflection that his humiliations were the result of military incompetence on the part of Americans rather than of overwhelming strength on the part of the enemy must have made these hours very dark indeed for the commander-in-chief. The ignominiousness of the situation was all too little tempered with heroism.

At about noon on Saturday the President, accompanied by Monroe, left Brookville, and went to Washington. Putting up for the time being at Rush's house, which was the same he himself had occupied while Secretary of State, he was joined on Sunday by Dolly. It was time to see what could be saved from the ruin.

Public opinion in Washington and Georgetown was divided between fear of a return of British forces, and disgust with the

administration. Their resentment concentrated on Armstrong and Winder as responsible for the disaster. During Sunday the 28th, Monroe fulfilled military duties, and among them some which were properly those of the Secretary of War. On Monday morning Madison received a message from the commanding general of the militia at Georgetown saying that "every officer would tear off his epauletts if General Armstrong was to have anything to do with them", but that Monroe, on the other hand, would be very acceptable. Armstrong eventually returned from Frederick, arriving in Washington about 1 P.M. on Monday, and that evening Madison stopped at his lodgings to talk things over. He told the Secretary what had happened, and that the sentiments of citizens and of the militia made it impossible for his services to be further utilized at the time. Armstrong replied that such was obvious, and that the prejudice against him had been artificially stirred up by persons whose names he knew. Madison agreed that some of the ill feeling was groundless, but declared that proper measures had not been taken by the Secretary. Arms and ammunition had not been collected in time, and the Secretary of War had certainly not shown sufficient energy in planning the defense of Washington. Next morning Armstrong, with Madison's consent, set out on a visit to his family, and from Baltimore he sent in his resignation, following it with a public communication, which dealt with the competence of the President in such a way that further relations became impossible.

Thus ended Armstrong's political career, and from that time Monroe reigned unopposed in the favor of the President. The controversy between the two men persisted for a generation, however, and is not yet settled. Just why Monroe should have been so favored as a military man is not clear to the layman, nor can one fully determine how far Armstrong was delinquent in his duties. Monroe was certainly a meddler; Madison certainly leaned unduly upon his Secretary of State between August 25 and August 29, and Armstrong was either too indolent or too unfortunate to appear in the right place at the right time.

Moreover, some victim had to be found to atone for the gross inefficiency of the whole affair. Winder was not enough. It was unfortunate that so able a man as Armstrong had to be sacrificed, and it was doubly unfortunate that his going should appear to be the result of intrigue. Yet some such change was inevitable, and Armstrong's departure at least brought peace to the Cabinet.<sup>6</sup>

## 3

The government seemed almost incapable of resuming its functions. On September 1, Madison issued a Proclamation, denouncing the attack on Washington and the behavior of the enemy generally as contrary to the rules of "civilized warfare", and calling on all officers and all citizens to exert themselves in defence of their country. Once more he hoped that disaster would rally public opinion to the support of the administration; once more his hopes were disappointed. Congress convened on September 19, housing themselves most uncomfortably in the building of the post-office department. The President himself moved into a large residence known as the Octagon, and never again lived in the White House. There was even a movement to abandon Washington as the seat of federal government, which subsided when a number of the city banks lent money for the rebuilding of the Capitol and the other public structures which had been destroyed.

The Treasury approached utter bankruptcy. A loan was attempted, but failed dismally. Banks suspended specie payments, currency varied in value from state to state, and the government had no way of transferring its own resources from one part of the country to another. Campbell was replaced in the Treasury Department by Alexander Dallas, who proposed to reestablish a National Bank. Congress finally passed the measure in January, but the Federalists succeeded in getting a provision attached requiring the institution to meet its notes in specie, which rendered the Bank worse than useless, and Madison was forced to veto the bill. No money was left, and the gov-

ernment was unable to meet the drafts drawn by Jackson for his army at New Orleans.

The army itself began to retrieve its past disgraces, and provided the only bright spots in the whole picture: the defeat of Sir George Prevost at Plattsburg in September, which halted the invasion of New York, and the successful exploits of Jackson in the South, which finally culminated in the battle of New Orleans. But there was scarcely a pretence of supervision from Washington; Monroe was unable to get his army bill through Congress, and the New England states claimed control of their own militias, announcing that since the national government was unable to defend them, they would defend themselves.

The blockade proved ever more effective, and the attitude of New England grew steadily more dangerous. It was this latter fact, far more than defeats in the field or disputes in the councils, which drove Madison to despair. In October, 1814, William Wirt wrote to a friend: "P—— and I called on the President. He looks miserably shattered and woe-begone. In short, he looked heart-broken. His mind is full of the New England sedition. He introduced the subject and continued to press it, painful as it obviously was to him. I denied the probability, even the possibility, that the yeomanry of the North could be induced to place themselves under the power and protection of England, and diverted the conversation to another topic; but he took the first opportunity to return to it, and convinced me that his heart and mind were painfully full of the subject".<sup>7</sup> A month later Madison wrote to W. C. Nicholas that the conduct of the eastern states had been the source of the greatest difficulties in carrying on the war, and that it provided the chief inducement for the enemy to continue hostilities. "The greater part of the people in that quarter," continued the President, with uncommon emphasis, "have been brought by their leaders, aided by their priests, under a delusion scarcely exceeded by that recorded in the period of witchcraft; and the leaders are becoming daily more desperate in the use they make of it. Their ob-



ject is power. If they could obtain it by menaces, their efforts would stop there. These failing, they are ready to go every length for which they can train their followers."

A hundred times already had the doctrines of the Virginia Resolutions been flung back at their author by the men of the northeast; at the end of 1814 the last step, short of rebellion, was taken. A convention assembled at Hartford with purposes dangerously vague, and finally, controlled by its more moderate members, adopted resolutions calling for a reform of the Constitution along lines which would protect the commercial states from the domination of the south and west. It was not a secessionist meeting, but the atmosphere of those days hardly permitted a careful estimate of any political manifestation, and the administration had cause to fear that the union itself was trembling.

Just as it seemed that financial bankruptcy, administrative inefficiency, and popular disaffection must cause the government to collapse and the President to go down in history as a disgraced man, Providence intervened. On February 11, 1815, a sloop entered New York harbor bringing the treaty of peace, and wild rejoicing ensued throughout the land. Few cared to inquire what the terms might be. There was no provision regarding impressments; in fact no single one of the avowed objects of the war had been secured. But it would have taken a sterner man than Madison to refuse the treaty. On the 18th he sent the document to Congress with a curious message. The causes of the war, he said, had "ceased to operate", therefore peace was particularly welcome. "The late war," he continued, ". . . has been waged with a success which is the natural result of the wisdom of the legislative councils, of the patriotism of the people, of the public spirit of the militia, and of the valor of the military and naval forces of the country." This sentence admitted various interpretations, but it is not recorded that anyone in those moments of relief was so ill-bred as to laugh at it, or even at the clauses which followed: "the Govern-

ment has demonstrated the efficiency of its powers of defense, and . . . the nation can review its conduct without regret and without reproach."

After recommending the veterans to the tender care of Congress, Madison moralized a little: "Experience has taught us that neither the pacific dispositions of the American people nor the pacific character of their political institutions can altogether exempt them from that strife which appears beyond the ordinary lot of nations to be incident to the actual period of the world, and the same faithful monitor demonstrates that a certain degree of preparation for war is not only indispensable to avert disasters in the onset, but affords also the best security for the continuance of peace." This may instructively be compared with the same statesman's frequent complaints during the '90's that every pretext for building up an army and navy was eagerly seized by the Federalist administration for the real purpose of subverting the republican character of the government.

And finally, as if to emphasize how thoroughly experience had made him a Hamiltonian, Madison looked towards the future in these words: "There is no subject that can enter with greater force and merit into the deliberations of Congress than a consideration of the means to preserve and promote the manufactures which have sprung into existence and attained an unparalleled maturity throughout the United States during the period of the European wars. This source of national independence and wealth I anxiously recommend, therefore, to the prompt and constant guardianship of Congress." The fact was, not that Madison had become a Hamiltonian, but that he was skillfully binding up the wounds of war. What sentiments could have been better chosen to soothe the outraged Yankees! The era of good feeling had begun.

Almost over night the state of mind of the American people changed. For twenty years the normal functions of their national life had been cramped and hindered, if not entirely in-

terraptured, by the far-reaching effects of the European struggle. Public affairs, which should have been concerned with the vast possibilities of the new continent, had been preoccupied with the insane quarrels of the old. The phrase "return to normalcy" had happily not been coined in 1815, but it was with a sense of profound relief and exultant hope that the people realized that irrelevant troubles were over, and that they might resume their own affairs in their own way. The ineptitudes and futilities of the war were forgotten; there were remembered only the glorious victories of the little navy and the final triumph at New Orleans. National pride appeared. A new era had begun.

Instead of being an object of resentment as the man who had involved the country in war, Madison became the idol of the people. No President since Washington had been so popular as he suddenly appeared. This was due to no act of his; and few even of the Americans were so ignorant as to credit him with the fact that the causes of war had ceased to operate. It was simply his good fortune to have two years of public life remaining, at a time above all in American history when the political atmosphere was one of serenity and optimism. His own feelings were entirely in harmony with those of the people; he had no hankerings for further dealings with European nations, and although the Emperor Alexander thought of asking him to sign the Holy Alliance, it is hardly likely that he would have accepted the invitation. A single sour note was struck amid the general rejoicing; Harrison Gray Otis, arriving in Washington as a delegate from the Hartford Convention, found himself, his companions, and his mission to be objects of national ridicule. Otis did not bear this gracefully. "I presume I have already told you," he wrote to his wife on February 22, 1815, "that we have rec'd no invitation from Madison. What a mean and contemptible little blackguard . . . I believe . . . that the little Pigmy shook in his shoes at our approach." <sup>8</sup> But Madison had no reason to worry, for the Federalist party died on the day that peace was announced, and before many years even its own members recognized the fact.

While the impoverished south and west rejoiced in the triumphant vindication of national honor which they chose to believe had been accomplished, New England came out of the war to find that Republican policy had actually conferred great benefits upon her. The discouragement of foreign commerce had meant the encouragement of domestic manufactures. New England had remained rich, and was rapidly growing richer, by supplying the country with goods which in the past had been imported from England. Nor was this all; for the frequent embarrassments to which Yankee shipping had been subject at the hands of the Republican administration had tended to check its enormous over-expansion, and thus to lessen the distress caused by post-war readjustment. The war of 1812, like other wars, was followed in time by an economic depression, but this depression was far less severe than it would have been had the shipping trade been allowed to expand to the full extent which England's preoccupation with war made possible. Federalists could not be expected to recognize this, but at least they viewed with complacency the flourishing industries of the northeast.

With the greatest rapidity the people turned their attention to developing the country's almost unlimited resources. In 1816 another National Bank bill was passed by Congress and signed by the President, over the vehement protests of John Randolph and the laments of John Taylor of Caroline. This was the only act of his political life which Madison thought might justly be considered an evidence of inconsistency, but he explained his position in 1831 thus: "My abstract opinion of the text of the Constitution is not changed, and the assent was given in pursuance of my early and unchanged opinion, that, in the case of a Constitution as of a law, a course of authoritative expositions sufficiently deliberate, uniform, and settled, was an evidence of the public will necessarily overruling individual opinions." <sup>9</sup>

To protect those industries which had been started under the artificial stimulus of war, a tariff bill was passed, also with

MONTPELIER, THE HOME OF MADISON





Madison's blessing. In short, the government of this ancient republican, in act and in feeling, was barely to be distinguished from that of the Federalists of 1792. The principles of Hamilton were irresistible.

Social life in Washington, which had been but little disturbed by war before the city itself was captured, soon returned to its old habits. Each Wednesday evening, "Mrs. Madison's levee" was held at the Octagon House as it had previously been at the White House, and was generally attended by two or three hundred people, including not only the regular members of Washington society but also any stranger of decent dress and manners who cared to present himself. The company would begin to arrive at seven o'clock, and soon the rooms were insufferably crowded. Occasionally there was music, though it seems to have been supplied casually by talented guests rather than by professionals. Waiters handed around "coffee, tea, wine, cakes, cream, etc.", and the President moved about from one group of guests to another, "very affable and industrious in conversation". A curious stranger, who attended one of these gatherings in 1811, reported that "Mrs. M, who is really a woman of noble appearance, is perhaps about 40 or 42 years of age, rather corpulent, with a countenance expressive of great benevolence, supports her station with dignity and ease, sometimes sitting in familiar conversation, and sometimes standing or moving from place to place, or when the levees are full, from room to room".<sup>10</sup>

This weekly reception at the President's house was the principal rendezvous of Washington society, and gave Dolly Madison a great reputation as a hostess. Her hospitality and good nature were greatly missed after her departure, for Mrs. Monroe, though a woman of social distinction and considerable beauty, suffered from ill-health, and reduced her entertaining to the absolute minimum. Madison himself had few intimate friends, and no talent for indiscriminate geniality, but thanks to the efforts of his wife he was never thought of as a cold and inaccessible potentate. Yet he made but little impression upon

the visitors who thronged his drawing room. As always throughout his life, he was regarded as a learned and agreeable person, but not as an inspiring leader.

Thus Madison's public career moved towards its close in political peace which must have been very satisfactory to the scholarly little man. Perhaps he believed that his ideal had been realized; that at last the Federal government truly reflected the will of the people; that no special interest or faction controlled it; that it had become "sufficiently neutral between the different interests and factions, to controul one part of the society from invading the rights of another, and at the same time sufficiently controuled itself, from setting up an interest adverse to that of the whole Society". Doubtless we should not, nowadays, interpret the history of those times in such words, and there is no direct evidence even that Madison did so, but it cannot be denied that for a few short years there was a lull in sectional strife, and a current belief even in the south that policies such as those of the Bank and the tariff served the best interests of the whole nation.

On the day before he retired from the Presidency Madison demonstrated that his republicanism was as staunch as ever, despite the fact that the country was changing in accordance with the changing conditions of the times. Congress had enthusiastically passed a bill appropriating federal funds for the construction of roads, canals, and other "internal improvements". This was a project which Madison, like Jefferson before him, heartily approved. The government had money to spare; what better use for it could be imagined than to make the country a more comfortable and prosperous place in which to live. Yet he vetoed the bill, and explained his veto to Congress in these words: " . . . seeing that such a power is not expressly given by the Constitution, and believing that it can not be deduced from any part of it without an inadmissable latitude of construction and a reliance on insufficient precedents; believing also that the permanent success of the Constitution depends on a definite partition of powers between the General and the



State Governments, and that no adequate landmarks would be left by the constructive extension of the powers of Congress as proposed in the bill, I have no option but to withhold my signature from it . . .” He concluded his message with the hope that the excellent results contemplated by the bill would be attained “by a resort for the necessary powers to the same wisdom and virtue in the nation which established the Constitution in its actual form and providently marked out in the instrument itself a safe and practicable mode of improving it as experience might suggest”. It is eloquent of the state of public affairs that this message surprised the people, who apparently had forgotten that their President had been a sincere opponent of Alexander Hamilton.

Next day Madison took part in the inauguration of President Monroe, and having thus conferred his blessing upon the next member of the Virginia Dynasty he departed soon afterwards for Montpelier and the rustic seclusion so beloved by republican statesmen.

## CHAPTER XV

### *MONTPELIER*

1817-1836

AT about five o'clock one summer afternoon while Madison was still President, a carriage drove up to the door of his house at Montpelier bringing Mrs. Margaret Bayard Smith for a short visit. She was conducted by her host to the dining-room, where several gentlemen were smoking cigars and finishing their after-dinner glasses of wine. Scarcely had she entered when Mrs. Madison appeared, joyfully embraced her guest, and led her away to a room where she could rest and enjoy refreshments of iced punch and "delightful pine-apples", for the Madisons had the first ice-house in that part of Virginia. "Hospitality is the presiding genius of this house, and Mrs. M. is kindness personified", wrote Mrs. Smith in her diary. She had left her daughters at home for fear of incommoding her friends; "Oh", said Dolly, "I should not have known they were here, among all the rest, for at this moment we have only three and twenty in the house".

Later Mrs. Smith and her hostess went out to the great "Piazza", sixty feet long, from which one could watch the sun setting over the Blue Ridge. "Here we walked and talked until called to tea, or rather supper, for tho' tea hour, it was supper fare", wrote the guest. "The long dining table was spread, and besides tea and coffee, we had a variety of warm cakes, bread, cold meats and pastry. At table I was introduced to Mr. William Madison, brother to the President, and his wife, and three or four other ladies and gentlemen all near relatives, all plain country people, but frank, kind, warm-hearted Virginians. At this house I realized being in Virginia, Mr. Madison, plain, friendly, communicative, and unceremonious as any Virginia Planter could be—Mrs. Madison, uniting to all the elegance and polish of fashion, the unadulterated simplicity, frankness,

warmth, and friendliness of her native character and native state. Their mode of living, too, if it had more elegance than is found among the planters, was characterized by that abundance, that hospitality, and that freedom, we are taught to look for on a Virginian plantation. We did not sit long at this meal—the evening was warm and we were glad to leave the table. The gentlemen went to the piazza, the ladies, who all had children, to their chambers, and I sat with Mrs. M. till bed time talking of Washington". Next morning Mrs. Smith joined "between 15 and 20 persons" at a "most excellent Virginian breakfast—tea, coffee, hot wheat bread, light cakes, a pone, or corn loaf—cold ham, nice hashes, chickens, etc." <sup>1</sup>

It was to this life that Madison returned in 1817. For nearly twenty years longer Montpelier kept its doors open to a procession of visitors, many of whom left accounts of their stay, and paid tributes to the good nature of the ex-President, who continued to direct their entertainment even after he could no longer leave his room to join them. The house, which Madison had so enthusiastically rebuilt soon after his marriage, was further enlarged and improved in 1809 under the direction of Latrobe, until as Dolly told Mrs. Smith "we have house room in plenty". On the first floor there were besides the large drawing-room, dining room and library, Madison's study, his secretary's office, and a suite of four rooms which his mother occupied until her death in 1829. The kitchens were in the basement, and the servants' quarters, of course, in other buildings. A few hundred yards to the west of the house, Madison laid out a large garden, in a shape which is said to have been inspired by the hall of the House of Representatives, and for a number of years he permitted himself the uncommon luxury of a French gardener.<sup>2</sup>

A mode of life such as this, which was extremely liberal, though without ostentation, required more than the resources of a planter for its support. Jefferson's habits and hospitalities so depleted his estate that when he died, in 1826, he left debts greater than the sale of Monticello could satisfy. Madison did

better, partly because he spent less money and ran his estate more efficiently, but partly also because he had started with more capital, and had been able to devote a greater proportion of time to the management of his farm. Yet for ten years after leaving the Presidency he failed to raise more than one crop which brought in a good return, and he confessed to Jefferson in February, 1826, that he had been "living very much throughout on borrowed means". This state of affairs apparently continued, as he was forced to sell land from time to time to pay his debts, but unlike Jefferson and Monroe he was able to die in the peaceful knowledge that his assets were greater than his liabilities.

So great a variety of matters claimed the ex-President's attention during his retirement that he told a friend he had rarely found his time less at his disposal than since leaving public office. The cares and duties of running the plantation were great. His chief marketable product was tobacco, but the greater part of his land was devoted to raising foodstuffs, particularly Indian corn, for the estate was made as nearly self-supporting as possible. The Hessian fly and the chinch-bug attacked his wheat, and he gave considerable attention to eradicating such pests, planting different varieties of each grain, observing their resistance to the insects, and oftentimes communicating the information thus gained to other individuals or to agricultural societies. It has already been mentioned that he became President of the Albemarle County Society. He held this office for several years, and the number of his letters which concern the problems of agricultural research testify to the time and interest he spent in these ways.

Besides such practical matters, he was constantly consulted upon literary, historical and even philosophical questions by various correspondents. A man sent him a book on phrenology; he replied with interest, and regretted to a third party that his age and affairs would not allow him time to make a study of this promising subject. Another person sent him a long pamphlet proving the existence of God, and Madison replied that he had

long given up thinking of such questions, but that it still appeared to him that the best proof was by arguing from effect to cause; from the wonders of Nature to the necessary source of her power. Jared Sparks consulted him while preparing the life of Gouverneur Morris, the edition of Diplomatic Correspondence of the Revolution, and that of Washington's papers. General Winder's son wrote, asking for a favorable opinion of his father's efforts at Bladensburg; Henry Wheaton requested assistance in a life of William Pinkney; Noah Webster asked his patronage of the new Dictionary. To all of these and many others, Madison made courteous replies, sometimes giving assistance, sometimes, as in the case of Winder, writing merely charitable and non-committal notes. The extent of his correspondence was enormous, though he did not, like Jefferson, complain that the importunities of his friends and admirers prevented all profitable occupation.

Of all his writings on these casual subjects, few are of much importance. He responded favorably to the works of Malthus, and criticized Godwin severely. Hearing of Robert Owen's work, he wrote somewhat sympathetically, seeming to approve of Owen's aims, but to doubt the efficacy of his means. "Every populous country is liable to contingencies that must distress a portion of its inhabitants", wrote Madison, naming as the chief of such troubles poor crops, the introduction of labor-saving machinery, the caprice of fashion, and a loss of foreign markets. "Mr. Owen's remedy for these vicissitudes", he continued, "implies that labour will be relished without the ordinary impulses to it; that the love of equality will supersede the desire of distinction; and that the increasing leisure, from the improvements of machinery, will promote intellectual cultivation, moral enjoyment, and innocent amusements, without any of the vicious resorts, for the ennui of idleness. Custom is properly called a second nature; Mr. Owen makes it nature herself. His enterprise is, nevertheless, an interesting one". With painful orthodoxy, he recommended a complete freedom of commerce among all nations, and perpetual peace, as the program promising most

exemption "from the distress exhibited in G. Britain", and he concluded, like his English contemporaries, with the observation that the increase in the number of laborers must inevitably reduce wages to a minimum, and raise misery to a maximum. "With this knowledge of the impossibility of banishing evil altogether from human society, we must console ourselves with the belief that it is overbalanced by the good mixed with it, and direct our efforts to an increase of the good proportion of the mixture".<sup>3</sup>

It is scarcely worth-while to dwell upon the melancholy conclusions to which the Malthusian doctrine led economists of those times, but it is of interest that Madison's belief in the theory seems to have been buttressed not only by his own observations, which had led him many years previously to anticipate some of Malthus's work, but by a patriotic feeling that such an analysis of population tendencies proved beyond doubt that the United States was destined to a place of immeasurable superiority in the Western World. Godwin, in attacking Malthus, had not only denied the theory, but supported his arguments by evidence drawn from American sources, and it was this latter part of his work which outraged Madison. The aged statesman was not a man to allow prejudices to obscure his reason, and it would be unjust to attribute his sociological views solely to patriotic enthusiasm. It is nevertheless remarkable that a theory, fraught with such terrible consequences to Europe, could be to some extent a basis for optimistic predictions regarding the future of America.

The problem of slavery worried Madison more and more as he grew older. He had about sixty negroes on the estate, and was known to be a kind master, but no one realized better than he that kindness could not repair the injury done to both races by the institution. He called the system a "dreadful calamity", and was unable to see any way out of the difficulty until the American Colonization Society, of which he was made President in 1833, appeared for a time to flourish and give promise of an ability to accomplish something. Madison felt that it was fool-

ish to think of freeing the slaves and allowing them to remain in the same neighborhood as their former masters. He could not conceive that a place could be found for them on the American continent, but he believed that they must be returned to Africa, difficult as the task might be. The suggestion which most interested him was that all female infants should be purchased at birth, by governmental appropriation, and their children declared free. The Constitution gave no authority to Congress to appropriate money for such a purpose, but Madison thought that no better use could be found for the proceeds from the sale of public lands than to apply them to this end after an amendment should make it legal. Yet he recognized fully the appalling obstacles to carrying out such a proposal, and when Harriet Martineau visited him in 1833 she found that his characteristic optimism did not and could not extend to his thoughts on this problem.

He commented often on the fact that the slaves were much better treated in Virginia than they had been before the Revolution, and he attributed this to their wider dispersion, in small groups, among a greater number of owners. Large plantations, with many slaves, tended to produce harsher treatment of the subject race, because their masters were less intimately acquainted with their necessities. For this reason also, he felt that the condition of negroes would be improved by permitting their emigration to the new territories. He was not in favor of localizing the evil, but of spreading it out as thinly as possible over the entire country.

## 2

Politics naturally remained one of his chief interests. During the administration of Monroe he was often consulted by the President, and acted, together with Jefferson, as an unofficial advisor to the government. He was sent a copy of the correspondence from Richard Rush, minister to Great Britain, in which the story was told of Canning's propositions for a joint

declaration of American and British policy in favor of the independence of the South American states. This scheme met with Madison's entire approval; he even suggested that the United States take a stand for the freedom of the Greeks, and against the French invasion of Spain in 1822. The wisdom of John Quincy Adams averted any meddling with the affairs of Europe, but the Cabinet's deliberations on the South American question resulted in the promulgation of the Monroe Doctrine. It cannot be said that Madison played any important part in the discussion which gave rise to this pronouncement, but he was well satisfied with it.

It was principally on constitutional questions that Madison was consulted during these years of retirement. He disapproved strongly of John Marshall. When the decision in the famous case of *McCulloch v. Maryland* was announced, he wrote to Judge Spencer Roane of Virginia, principal judicial enemy of Marshall, agreeing "that the occasion did not call for the general and abstract doctrine interwoven with the decision of the particular case". He was very much opposed to Marshall's famous doctrine: "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional". This doctrine, wrote Madison, "seems to break down the landmarks intended by a specification of the powers of Congress, and to substitute, for a definite connection between means and ends, a legislative discretion as to the former, to which no practical limit can be assigned". "Is there a legislative power, in fact, not expressly prohibited by the Constitution, which might not, according to the doctrine of the court, be exercised as a means of carrying into effect some specified power?" It seemed to him obvious that Congress alone could judge of the expediency of any measure passed as a "means", for "a question, the moment it assumes the character of mere expediency or policy, [is] evidently beyond the reach of judicial cognizance". And he concluded his criticism with his own



familiar theory: "If the powers [of Congress] be deficient, the legitimate source of additional ones is always open, and ought to be resorted to".<sup>4</sup> Constitutional amendment rather than judicial interpretation should be the means of broadening the powers of the central government. It must be admitted that Madison seems to have abandoned his early idea of a "neutral sovereignty" which should be secured by enlarging the compass of the state, and taken refuge in a literal reading of the Constitution, seeking defence against oppression in the paper guarantees against Congressional encroachments. Such encroachments, he wrote, were more to be feared from impulses given Congress "by a majority of the States seduced by expected advantages, than from a love of Power in the Body itself, controuled as it *now* is by its responsibility to the Constituent Body".

But if Madison showed himself a severely strict constructionist of the fundamental law, he was as far as ever from advocating state sovereignty. When Marshall decided the case of *Cohens v. Virginia*, and upheld the right of the Supreme Court to review the constitutional decisions of a state court, Judge Roane and other Virginians renewed protests which they had already made against this doctrine. Madison, however, although he first evaded the direct issue, eventually declared explicitly that in controversies between federal and state jurisdictions, the final answer must be given by the Supreme Court. In other words, the Federal government must be the ultimate judge of the extent of its own powers, said Madison, and referred to his own statement in the 39th number of *The Federalist*, which he saw no reason to disavow in 1823.<sup>5</sup>

These opinions concerning judicial decisions were expressed by Madison only in private letters; he did not appear in the press as a controversialist. But there was one problem on which he finally spoke out publicly: the tariff. The gradually rising duties of the eighteen-twenties, the gradually diminishing prosperity of the seaboard states of the south, and the growing menace of industrialism, all roused in southerners a deep resent-

ment and a great fear. Their protests were concentrated against the tariff, and in fact they seem to have felt that all their various difficulties were symbolized in this device of northern manufacturers. There arose a wide belief among southern statesmen that a protective tariff was unconstitutional. Imposts for the sake of revenue they admitted, but not imposts for the sake of encouraging special interests. Madison devoted a number of private communications, and eventually several public ones, to an exposition of his views on the matter. He insisted that a protective tariff was perfectly constitutional, whatever might be its desirability as a matter of public policy. The weary controversy over this point is now so dead as to be pointless, and there is no need of reviewing Madison's arguments. Suffice it to say that he was able to quote his own speeches in the first Congress in support of his contention, and to cite the fact that during his own administration a protective tariff had been enacted with the full agreement of southerners.

It is of greater interest to find that he defended not only the constitutionality, but also the policy, of protective duties. His arguments were those which have always been the stock-in-trade of protectionists; he preached them not as the ideal truth, but as applicable in the unhappy state of international relationships. Free trade would be best, said he, but free trade presupposes peace, which is a precarious foundation on which to base national policy. The country must not become dependent upon foreign nations for the munitions of war, nor for manufactured goods which a state of war will shut out from commerce. Finally, free trade would not be a reasonable policy unless all nations concurred. These were the same points he had brought out during the first session of the new Congress; they were in fact the same arguments which had once appealed to him as demonstrating the necessity for a new and stronger constitution. In the eighteen-twenties neither sectionalism nor old age had altered his beliefs.

But it is most remarkable of all to find him arguing that the economic difficulties of the southern states were really not at-

tributable to the tariff, but to other factors. Of these the chief were the fall in the price of land, which was caused by the constant increase of the supply of western lands on the market, and the fall in the price of agricultural products, due to the increased production from these same western lands. In a striking letter written in 1832 Madison analyzed the economic situation of the country, and predicted its future. The enormous resources of the United States, said he, had already produced a surplus of agricultural commodities beyond what was needed for the supply of the domestic and foreign market. It followed that an increasing surplus of labor must be employed in the other branches of industry, and that the United States, contrary to the theories of European economists, must become a manufacturing country as well as an agricultural one without waiting for a crowded population. The mere repeal of the tariff, he thought, would not alleviate the hardships of the south to any appreciable degree; the only remedy was for Virginia to turn her attention to manufacturing. "May we not look forward to a more radical cure of the evil of discontent in an approaching diminution of the difference of the employment of capital and labour in the great sections of the country? The difference at present lies in the almost exclusive employment of labour in the Southern section in agriculture, and the extensive employment of it in manufactures in the Northern. In proportion as the Southern section becomes manufacturing, the dissimilarity will be removed, and with it the conflicting views engendered by it. And is not a substitution of manufacturing for agricultural labour in the slaveholding section, in Virginia particularly, manifestly approaching?"<sup>6</sup>

This theory, sound enough in itself, had practical difficulties which need no elaboration. The fact is, Madison was a man whom the course of economic development had left high and dry. He had been born into the dominant economic class of the south, the wealthy planters of tobacco, but he had lived to see supremacy pass from tobacco to cotton, from Virginia to more southerly states. The south was still primarily fitted for agri-

cultural, plantation economy; but it was cotton, not tobacco, which was king. Hence Madison's views at the end of his life are rather more in accord with his own personal economic situation than they were in his earlier career. He did not quite go to the extent of wishing to check westward expansion, but he knew that every acre of new land which was taken up reduced the value of his own farm and of its products. He did not like high tariffs, but he had drifted into a sympathy with industrialism which was un-southern, because for his own section of the south there was no other mode of salvation. Though he did not publicly align himself with any party, he was more of a southern Whig than a southern Democrat.

The culmination of the tariff controversy was reached when South Carolina promulgated the doctrine of nullification. We have already seen that Madison devoted much of the energy of his last years to combatting this notion, and especially to denying its connection with the theories of the Virginia and Kentucky Resolutions. His motives were certainly not economic; they were patriotic, in the best sense of the word. He was an old man, deeply and sincerely troubled by the menaces which seemed to beset his country.

In general, the strict-constructionist views of Madison have not found much favor, especially with persons carried away by the genius of Hamilton and Marshall. Some have laid the responsibility for nullification and disunion upon him, entirely unjustly. Others, who have absolved him from these sins, have criticized him for clinging to a rigid and static view of the Constitution, which would make it unadaptable to the changing conditions of society. This is not altogether fair. He was perhaps as convinced as John Marshall himself that the fundamental law must be shaped to fit the needs of society, but he insisted that it be by the process of amendment, not of judicial interpretation. Though Marshall's method certainly made the Constitution, within limits, an admirably flexible instrument of government, it also tended to make the process of amendment appear even more tedious and cumbersome than the framers

intended. If Madison's views had found favor, if there had been a more frequent appeal to the people for the various powers which were in fact assumed by Congress with the connivance of the Supreme Court, it is not impossible that the process of amendment might have become less revolutionary in its implications, and the Constitution, while being somewhat less pliant in small matters, might have become more so in great. It is probably more difficult to change the Constitution today than Madison ever intended it should be, for though conservative, he stood for change when change was necessary.

## 3

One subject in which the aged statesman took particular interest was education. "A popular Government", he wrote, "without popular information, or the means of acquiring it, is but the prologue to a farce or a tragedy; or perhaps both".<sup>7</sup> He shared with Jefferson a great faith in the efficacy of education, and said that learned institutions ought to be favorite objects with every free people. "They throw that light over the public mind which is the best security against crafty and dangerous encroachments on the public liberty". These are but the commonplaces of the democratic doctrine, and it cannot be said that Madison made any original contribution to the educational system of the country. His ideas agreed with those of Jefferson, who had drafted the education bill of 1779.

In 1822 a man from Kentucky sent him an account of the provisions which that state had recently made for a system of popular education, and Madison took the opportunity to put his views on record. One argument was rather curious. Defending a system of publicly supported schools against those who resented paying taxes for the training of other people's children, he remarked that there was in governments like the United States "a constant rotation of property". "The rich man, when contributing to a permanent plan for the education of the poor,

ought to reflect that he is providing for that of his own descendants; and the poor man, who concurs in a provision for those who are not poor, that at no distant day it may be enjoyed by descendants from himself. It does not require a long life to witness these vicissitudes of fortune".<sup>7</sup> The basis for this statement was Madison's confident belief that the United States had abolished the existence of great dynastic fortunes such as those of the old world. The prohibition of entail and primogeniture had been the principal legislative means of achieving this end, and he viewed with great satisfaction the dispersion of private property among greater numbers of individuals. To him, this was the only compensation for the melancholy truths of Malthus: that if one generation of a family suffered poverty, the next might well rise to wealth in a free country such as America.

To the Kentucky committee he made only one concrete suggestion. He recommended "adding to reading, writing, and arithmetic, to which the instruction of the poor is commonly limited, some knowledge of geography; such as can easily be conveyed by a globe and maps, and a concise geographical grammar". To this he would add a knowledge of the solar system, which might be gained from a cheap planetarium. "No information seems better calculated to expand the mind and gratify curiosity than what would thus be imparted". The study of geography, said he, would weaken local prejudices and "enlarge the sphere of benevolent feelings", while it might also lead to the reading of books of travels and voyages, and finally to a "general taste for history—an inexhaustible fund of entertainment and instruction". Thus the vicious amusements of the lower classes might be refined, and become a credit to the community.

Thomas Jefferson devoted much of the time of his declining years to the University of Virginia, and Madison was closely associated with him in his work. It was the creation of the older man, and his pride and joy; Madison's part was that of an assistant. In 1824 he prepared a list of theological works for the library, at Jefferson's request, for although there was to be no religious instruction, both men felt that the library must contain

references for the scholar and the pious student. The two men encountered many obstacles in their labors; they had great difficulty in finding professors, most of whom had to be imported from England, and when once the University was opened there were some serious disciplinary problems with the students.

One point in connection with the University curriculum is worthy of note. Devoted as they were to freedom of thought and the search for truth, there was one subject in which the Board of Visitors, under Jefferson and Madison, proposed to supervise the teaching. This was political science, as taught in the Law School. "It is certainly very material", wrote Madison to Jefferson, "that the true doctrines of liberty, as exemplified in our Political System, should be inculcated on those who are to sustain and may administer it". Jefferson had recommended a rigid supervision of the professor, but Madison suggested that this be somewhat relaxed. For the study of political theory, Locke and Sidney were to be used; for the explanation of the Constitution, *The Federalist*. Then came the problem: should the Virginia Resolutions of 1798 and the accompanying report of 1799 be prescribed? Madison feared that some gentlemen might refuse to send their sons to an institution upholding the doctrines of 1799, nor was he even certain that his brethren of the Board of Visitors approved them entirely. Eventually the two sages decided to include the Report of 1799, but to put in also the Inaugural speech and the Farewell Address of Washington. "They may help down what might be less readily swallowed", wrote Madison, "and contain nothing which is not good; unless it be the laudatory reference in the Address to the Treaty of 1795 with G. B. which ought not to weigh against the sound sentiments characterizing it".<sup>8</sup> Thus a University ostentatiously established without a religious creed was carefully supplied with a political philosophy; in every other department the professor chose his own text, and expounded his own system. Madison was not entirely comfortable about these rules. "After all," he wrote, "the most effectual safeguard against heretical intrusions into the School of Politics, will be an Able & Orthodox

Professor, whose course of instruction will be an example to his successors”.

When Jefferson died in 1826, Madison succeeded him as Rector of the University, and did faithful service until his death. He left the greater part of his library to the institution, which stood sorely in need of books, and his collection remained intact until 1895, when it was destroyed by fire.

Only one other public duty was undertaken by Madison in his years of retirement. When Virginia summoned a Convention to revise the State Constitution, in the winter of 1829-1830, he accepted election as a delegate from the senatorial district in which he resided, and journeyed to Richmond for the sessions. He made but one speech, which was in defence of the proposal to count five slaves as three persons in estimating population, as was the federal custom. Monroe, Marshall, and himself were the patriarchs of the gathering, and refrained from taking an active part in the manoeuvres of the various factions, which proved to be intricate and delicate. Madison approved the new Constitution which was drafted, and it was in time ratified by the people.

## 4

In 1828 Mrs. Smith visited Montpelier once more. She met with the same genial reception; Madison greeted her at the door, Mrs. Madison entertained her with the greatest kindness, and there was every sign of comfort and happiness. The walls were hung with paintings of the country's worthies, many of them done by Stuart; the larger rooms were crowded with statuary and ornaments. At dinner, which was served at four o'clock, Madison gave free rein to his conversation, which was "a stream of history, and continued so until ten o'clock, when we separated for the night, so rich in sentiments and facts, so enlivened by anecdotes and epigrammatic remarks, so frank and confidential as to opinions on men and measures, that it had an interest and charm, which the conversation of few men now liv-



ing could have". The old gentleman was noted for the sprightliness of his demeanor among friends, but Mrs. Smith remarked that "this entertaining, interesting and communicative personage, had a single stranger or indifferent person been present, would have been mute, cold and repulsive".<sup>9</sup> The shyness and diffidence of the statesman's youth had never been entirely conquered; he had not Jefferson's talents for society.

He grew old peacefully. There were comparatively few personal troubles to mar his declining years. His stepson, John Payne Todd, was a graceless, spendthrift man, and Madison was obliged several times to pay his debts from the diminishing revenues of Montpelier. But certainly the greatest grief which befell the old man was the death of his friend Jefferson. "I have known him", wrote Madison to N. P. Trist, ". . . for a period of fifty years, during which there has not been an interruption or diminution of mutual confidence and cordial friendship, for a single moment in a single instance. What I feel therefore now, need not, I should say, cannot, be expressed". Monroe died in 1831, and Madison found himself left practically alone among the men and manners of a new age.

He was often reminded of his years. Not only was he accused by zealous southerners, of "a change of opinion in almost every important question which has divided parties in this country", but he was obliged to see his views derided in the newspapers as those of an old and foolish man. This seems to have hurt him a little; he did his best to refrain from public political controversy upon every question but that of nullification. "A man whose years have but reached the canonical three-score-and-ten (and mine are much beyond the number) should distrust himself, whether distrusted by his friends or not, and should never forget that his arguments, whatever they may be, will be answered by allusions to the date of his birth". Thus he wrote in 1830, when he still had six years to live.

He was not altogether without physical suffering. Occasionally, as in the spring of 1832, his bilious fever would return, but he was mainly troubled by rheumatism, which affected prin-

cipally his hands and fingers. It became practically impossible for him to write, and the letters of his last few years are in a microscopic hand for which he apologized to his correspondents, saying that his fingers would not move any further. He became extremely emaciated. In 1832 Mr. Andrew Stevenson sent him a warm cap, and Mrs. Stevenson added a pair of gloves. Madison wrote a note in reply which is almost the only sample we have left of his whimsical humor: "Mrs. Madison has also provided well for my feet", ran part of the letter. "I am thus equipt cap-a-pie, for the campaign ag<sup>st</sup> Boreas, & his allies The Frosts & the snows. But there is another article of covering, which I need most of all & which my best friends can not supply. My bones have lost a sad portion of the flesh which clothed & protected them, and the digestive and nutritive organs which alone can replace it, are too slothfull in their functions".

His mind remained unimpaired to the end, though he complained of slight lapses in memory. In 1833 Harriet Martineau visited him, and conversed for hours, mainly about the problems of slavery. She found the finest of his characteristics to be his "inexhaustible faith" in the survival of the free commonwealth and the principles of justice which he had helped to establish in the country. He was melancholy only on the subject of slavery. During January, 1835, George Shattuck, Jr., of Boston, called at Montpelier with a letter of introduction. He found Madison "seated in an arm chair, his back supported by a pillow. Round his head was a blue silk kerchief, from which a few straggling white locks escaped. His nose is small but regular and handsome; his eye bright, his mouth not fallen in at all". For some years he had not been able to walk about; he took breakfast in bed, and dined alone in his room, where he took "exercise in a rocking chair". Young Shattuck found him "very cheerful, sprightly, much interested in what is going on in the world". He inquired about the New England factories and their workmen, expressing a confidence that Virginian slave-labor could be similarly employed with great profit. For an entire afternoon the

old man talked with his visitor about a great variety of subjects.<sup>10</sup>

It was during this same year that he directed the writing of a long essay on nullification, in which he presented all the arguments against it which he had used in various letters, all the explanations which he had so often given of the Virginia Resolutions of 1798, and his final conviction that a republic as large as the United States could exist neither as a consolidated national state, nor as a purely federal league, but only by preserving faithfully the balance between the two systems which the Constitution had established. This may be considered as his last political testament, though there was still one thing which he wished to say with even greater solemnity.

On the morning of June 28, 1836, his niece brought his breakfast to him as usual, urging him to eat. She then left the room, and when after a few minutes she returned, he was dead. He had made a will, leaving most of his property to Mrs. Madison, and entrusting her with the publication of the precious Notes of the Federal Convention. But there was found among his papers one headed "Advice to My Country", which seemed to express the feelings closest to his heart as his life ended:

"As this advice, if it ever see the light, will not do so till I am no more, it may be considered as issuing from the tomb, where truth alone can be respected, and the happiness of man alone consulted. It will be entitled, therefore, to whatever weight can be derived from good intentions, and from the experience of one who has served his Country in various stations through a period of forty years; who espoused in his youth, and adhered through his life, to the cause of its liberty; and who has borne a part in most of the great transactions which will constitute epochs of its destiny.

"The advice nearest to my heart and deepest in my convictions is, **THAT THE UNION OF THE STATES**

BE CHERISHED AND PERPETUATED. LET THE OPEN ENEMY TO IT BE REGARDED AS A PANDORA WITH HER BOX OPENED, AND THE DISGUISED ONE AS THE SERPENT CREEPING WITH HIS DEADLY WILES INTO PARADISE."

## BIBLIOGRAPHICAL NOTE

### MANUSCRIPTS.

Practically all Madison's private papers are now in the Library of Congress, and have recently been arranged in chronological order and bound in ninety volumes. *A Calendar of the Correspondence of James Madison*, published by the Department of State in 1894, covers the part of the collection which was formerly deposited in the Department. A good many additions have been made, however, and are not included in the calendar.

Madison's official correspondence as Secretary of State is preserved in the State Department.

There is a small collection of Madison MSS in the New York Public Library, and a few early letters may be seen in the archives of the Pennsylvania Historical Society. I have made no exhaustive search for further collections of manuscripts, but have found a few items in the Virginia State Library, the Boston Public Library and the library of the Massachusetts Historical Society.

Among the Jefferson MSS in the Library of Congress are a considerable number of letters from Madison to Jefferson of dates between 1801 and 1809, of which Madison kept no copy in his own files. These were used by Henry Adams in his *History*, but have not otherwise been printed or calendared.

### PUBLISHED WRITINGS OF MADISON.

*The Madison Papers*. 3 vols., 1840. Published by order of Congress and edited by H. D. Gilpin. This edition contains the debates in Congress in 1782-1783 and 1787, the debates in the Constitutional Convention, and a number of letters illustrating this material.

*Letters and other Writings of James Madison*. 4 vols., 1865. A fairly complete edition of Madison's more important letters, together with miscellaneous writings.

*The Writings of James Madison*. 9 vols., 1900-1910. Edited by Gaillard Hunt. This is the edition now generally used. Volumes 3 and 4 contain the notes of debates in the Convention; volume 7 prints many of Madison's official instructions to American ministers abroad, written while he was Secretary of State. Many letters not printed in the 1865 edition are found in this one, but it omits some which appeared in the former edition, especially from the decade of the 1790's,

and from the period after Madison's retirement from the Presidency.

Some letters not printed elsewhere may be found in E. C. Burnett, *Letters of Members of the Continental Congress*, and in Henry Adams's edition of the *Writings of Albert Gallatin*.

#### BIOGRAPHIES.

Rives, William C. *History of the Life and Times of James Madison*. 3 vols., 1859-1868. Henry Cabot Lodge called this one of the most solemn, learned, and respectable biographies ever penned by the hand of man. In style and tone it is indeed almost majestic, and deserves notice as an extreme example of one kind of American historiography. Nevertheless it is conscientious, scholarly and reliable. Rives was personally acquainted with Madison, and besides using the Madison papers did much pioneer work in other sources. He unearthed for the first time many facts which are now the commonplaces of less exalted histories. The work covers only the part of Madison's career preceding the administration of John Adams.

Gay, Sydney H. *James Madison*. 1885. (American Statesmen Series). This slight work adds nothing to the knowledge of Madison. It is hostile to him personally, to his party, his state, and his section. It is written under the shadow of the Civil War, by an unregenerate northerner. The style is good; it makes the best reading of any of the biographies.

Hunt, Gaillard. *The Life of James Madison*. 1902. This is the standard biography. Written by the editor of Madison's papers, it is an excellent account of the facts which they disclose. It is weakest on the period 1801-1817, and it makes little attempt at an interpretation of the material which it presents. The book is not a lively one, but I am well able to sympathize with the author's difficulties in this respect.

Hill, Charles E. *James Madison*. 1927. (In volume 3 of *The American Secretaries of State and their Diplomacy*, edited by S. F. Bemis). Although it includes a short biographical sketch, this is not intended to be more than an account of Madison's career as Secretary of State. If the two succeeding essays in the volume, those on Robert Smith and James Monroe, be included, one has probably the best summary of foreign policy during the period when Madison was a member of the Executive.

## REFERENCES

### CHAPTER I

1. American Historical Association, Annual Report for 1903. Volume II, p. 373.
2. Inventory of the estate of James Madison. Madison MSS. Vol. 90.
3. W. C. Rives. *Life and Times of Madison*. I, 96-97.
4. "Autobiography". Madison MSS. Vol. 90.
5. K. M. Rowland. *The Life of George Mason*. p. 371.
6. Quoted in Hunt. *Life of Madison*. p. 4.
7. "Autobiography". Madison MSS. Vol. 90.

### CHAPTER II

1. E. C. Burnett, ed. *Letters of Members of the Continental Congress*. Volume VI. p. 20.
2. Charles Thomson's Notes of Debates, in Burnett, *op. cit.* VI, 435.
3. Lee to F. Dana. Burnett, VI, 379.
4. See Madison's own analysis of these matters, printed in Burnett, VI, 340-341.
5. Madison, *Writings*, ed. Hunt. I, 408n.

### CHAPTER III

1. Madison MSS. II, 79.
2. Bancroft. *History of the Constitution*. I, 361.
3. *ibid.* I, 361-362.
4. Madison, *Writings*, ed. Hunt. II, 183-191.
5. Jefferson, *Works*. Federal Edition, ed. by P. L. Ford. VIII, 194.
6. Madison, *Writings*, ed. Hunt. II, 246-247.

### CHAPTER IV

1. *Letters of R. H. Lee*. ed. Ballagh. II, 383.
2. Bancroft. *Constitution*. II, 411.
3. *ibid.* I, 361.
4. Hunt. *Life of Madison*. p. 89.
5. Madison, *Writings*, ed. Hunt. V, 27.
6. Printed in Madison, *Writings*, ed. Hunt, II, 403n.

7. This account of the Annapolis Convention is based on a description given by Madison in a letter to Noah Webster, October 12, 1804. *Writings*, ed. Hunt. VII, 162-167. See also IX, 246-247.
8. Bancroft. *Constitution*. II, 399.
9. Madison, *Writings*, ed. Hunt. II, 391 ff.

## CHAPTER V

1. The following writings of Madison are perhaps most useful in explaining his political theory, though they are by no means the only ones in which he deals with the subject. References are to the Hunt edition of the *Writings*. 1. Paper on the "Vices of the Political system of the U. States", dated April, 1787. II, 361-369. 2. Letters to Jefferson, October 24, 1787, V, 17-32; October 17, 1788, V, 269-275. 3. *The Federalist*, Numbers 10, 39, 51. (The authorship of the last has been disputed, but it contains little that Madison did not express elsewhere.) 4. Observations on the "Draught of a Constitution for Virginia", V, 284-288. 5. Essays on "Parties" and on "Property", written for the *National Gazette* during 1792. VI, 86, 101. 6. Note to a speech of his own in the Constitutional Convention on the right of suffrage, written about 1821, printed in *Records of the Federal Convention*. ed. Farrand. III, 450-455.
2. *Records of the Federal Convention*. ed. Farrand. I, 146-147.
3. *ibid.* III, 237.
4. Madison's reports of his own speeches, as of those of others, are written in the third person.

## CHAPTER VI

1. Madison MSS. VIII, 49.
2. Madison MSS. IX, 19.
3. Dawson to Madison. Madison MSS. VIII, 115. The preceding quotations are printed in Madison, *Writings*, ed. Hunt, V, 88-90, 105n.
4. Madison MSS. IX, 14.
5. Several of these letters have not been printed, especially those to George Nicholas, who was in Kentucky. Madison MSS. IX, 12 ff., 36 ff.
6. Madison MSS. IX, 47.
7. See A. J. Beveridge. *Life of John Marshall* on this point.
8. Madison to Washington. Madison, *Writings*, ed. Hunt. V, 234.
9. Hamilton to Madison, July 8, 1788. Tench Coxe to Madison,



- July 23. Madison to Tench Coxe, July 30. Madison MSS. IX, 81, 87, 93.
10. Tench Coxe to Madison. October 22, 1788. Madison MSS. X, 27.
  11. Madison to E. Randolph. Oct. 28. Madison MSS. X, 30.
  12. M. D. Conway. *Omitted Chapters of History Disclosed in the Life and Papers of Edmund Randolph*. p. 118.
  13. Henry Lee to Madison. Nov. 19. Madison MSS. X, 50.
  14. Francis Corbin to Madison. Nov. 12. Madison MSS. X, 46.
  15. Henry Lee to Madison, Nov. 19. Hamilton to Madison, Nov. 23. Madison MSS. X, 50, 53. F. L. Humphreys. *Life and Times of David Humphreys*. I, 438.
  16. Nicholas to Madison. Madison MSS. X, 80.
  17. Hunt. *Life of Madison*. p. 165.

## CHAPTER VII

1. Jefferson, *Works*. Federal Edition. VII, 376.
2. Madison to Jefferson, June 30, 1789. Madison to Tench Coxe, June 24. Madison MSS. XI, 99, 95.
3. Tench Coxe to Madison. Oct. 22, 1788, Jan. 27, Mar. 18, Mar. 24, April 21, June 18, 1789. Madison MSS. sub dat.
4. Alexander White to Madison. August 17 and August 25, 1789. Madison MSS. XII, 8, 17.
5. Hamilton to Madison. October 12, 1789. Madison MSS. XII, 42.
6. Madison to Hamilton. November 19, 1789. Hamilton MSS. Library of Congress. VIII, ff. 999-1000. Both letters are printed in J. C. Hamilton. *History of the Republic*. IV, 60-64.
7. *The Journal of William Maclay*. New York, 1927. pp. 196-197.
8. B. Rush to Madison, Feb. 27, 1790. J. Nicholson to Madison, Feb. 17. H. Lee to Madison, March 4. E. Carrington to Madison, March 2. E. Randolph to Madison, March 6, March 10. Madison MSS. XII, 84, 79, 89, 86, 93, 95.
9. H. Lee to Madison, April 3, 1790. Madison MSS. XIII, 2.
10. B. Rush to Madison, April 10. Madison MSS. XIII, 6.
11. Jefferson, *Works*. Federal Edition. VII, 226.

## CHAPTER VIII

1. E. Carrington to Madison. Dec. 24, 1790. Madison MSS. XIII, 77.
2. Thomas Pleasants, Jr. to Madison. Mar. 4, 1791. Madison MSS. XIII, 108.

3. H. Lee to Madison. Jan. 8, Jan. 29, 1792. Madison MSS. XIV, 109, 116.
4. Hamilton to Carrington. Hamilton, *Works*, ed. Lodge. IX, 513.
5. E. Randolph to Madison, July 21, 1791. F. Corbin to Madison, Oct. 25. William Madison to Madison, Dec. 3. Madison MSS. XIV, 29, 57, 80.
6. G. Turberville to Madison, Jan. 28, 1793. Madison MSS. XV, 118.
7. John Taylor to Madison. May 11, 1793. Madison MSS. XVI, 20.

## CHAPTER IX

1. John Taylor to Madison, Sept. 25, 1793. Monroe to Madison, Sept. 25, 1793. Madison to Monroe, Oct. 29, 1793. Madison MSS. XVI, 77, 78, 86.
2. Madison, *Writings*, ed. 1865. IV, 492.
3. *ibid.* II, 80.
4. Pierce Butler to Madison. June 12, 1795. Madison MSS. XVIII, 53.
5. Madison to Jefferson. Oct. 5, 1794. Madison MSS. XVII, 85.
6. Horatio Gates to Madison, March 13, 1794. Madison to his father, March 10, 1794, April 25, 1794. Madison MSS. XVII, 37, 33, 56.
7. Charles Pinckney to Madison. Oct. 26, 1800. Madison MSS. XXI, 112. H. Lee to Madison. Sept. 23, 1794. Madison MSS. XVII, 84.

## CHAPTER X

1. Figures taken from the tax assessment books of Orange County, in the Virginia State Library, Manuscripts Division.
2. Madison MSS. XIII, 74.
3. Madison MSS. XIX, 39; XX, 25.
4. Printed in Madison, *Writings*, ed. 1865. III, 63-95.
5. Dawson to Madison. June 4, 1797. Madison MSS. XX, 48.
6. Feb. 7, 1799. Madison MSS. XXI, 30.
7. Bishop James Madison to Madison, January 9, 1800. quoted in Hunt, *Life of Madison*. p. 257. Hubbard Taylor to Madison, January 3, 1799. Madison MSS. XXI, 20. See a letter of Madison to Nicholas Trist, February 15, 1830, on the meaning of "Compact". Madison, *Writings*, ed. Hunt. IX, 354-358n; also his other writings on Nullification in Volume IX, *passim*. The best short account of the theory of the Virginia and Kentucky Resolu-

tions is that in Chapter XX of *A Constitutional History of the United States*, by A. C. McLaughlin.

8. Madison's "Autobiography". Madison MSS. Volume 90.

## CHAPTER XI

1. W. B. Bryan. *A History of the National Capital*. I, 159.
2. *Forty Years of Washington Society, portrayed by the family letters of Mrs. Samuel Harrison Smith*. ed. G. Hunt. pp. 10-11.
3. Bryan, *op. cit.* p. 406. Hunt, *Life of Madison*. pp. 274-275.
4. *Forty Years of Washington Society*. pp. 53-54, 46-47.
5. E. S. Brown, ed. *William Plumer's Memorandum*. pp. 358-359.
6. While the administration was coming to this decision Madison was in Philadelphia, and gave in his opinions by letter. It is one of the few times when his ideas can be distinguished from those of Jefferson. I have consulted his letters in the Jefferson MSS., but find nothing to add to the admirable account given by Henry Adams in his *History of the United States*. Vol. III, Chapter III.
7. Tench Coxe to Madison. June 1, 1807. Madison MSS. XXXII, 47. See also XXXII, 64.
8. *Writings of Albert Gallatin*. ed. by Henry Adams: Gallatin to Jefferson, April 16, 1807; Madison to Jefferson, April 17.
9. *Annals of Congress*. XV, col. 599-600.
10. Madison, *Writings*, ed. 1865. II, 215.
11. A. Campbell to Madison, July 11, 1807. Tench Coxe to Madison, 1807 (no other date). H. Dearborn to Madison, Aug. 17. H. Lee to Madison, July 19. Madison MSS. XXXII, 73; XXXIII, 76; XXXII, 105, 78.
12. George Joy to Madison, Sept. 17, 1808. Madison MSS. XXXV, 13 and 14. This is a long and interesting letter on the effect of the embargo in England and America.
13. See Madison to William Pinkney, *Writings*, ed. Hunt, VIII, 42. This was an official instruction written on January 3, 1809. The only direct expression of Madison's personal opinion of the embargo during the time it was in force is contained in the letter from Joy to Madison referred to above. Joy says he is quoting Madison's own words: "whether the Embargo or War be the greater Evil may become a Question; but whether a submission to be taxed by and trade under Licences from a foreign Government will never be a Question". Madison's syntax was generally better than this, but his meaning is fairly clear.

It is worthy of remark that George Joy in England, and Tench Coxe in Philadelphia, both of whom were business men, empha-

sized in their letters to Madison the excellent results which the embargo was having, and would have in future, upon the development of manufactures.

## CHAPTER XII

1. Quoted in Claude G. Bowers. *Jefferson in Power*. p. 325.
2. *Annals of Congress*. XV. col. 775.
3. Pierpont Edwards to Madison. July 31, 1806. Madison MSS. XXX, 99.
4. J. Q. Adams. *Diary*. I, 365.
5. *Forty Years of Washington Society*. pp. 35-36. J. Q. Adams. *Diary*. I, 281-282.
6. *Forty Years of Washington Society*. pp. 51-52.
7. Madison to Jefferson. August 2, 1805. Jefferson MSS. The letters quoted are from *Memoirs and Letters of Dolly Madison*. pp. 56-61.
8. Danvers, J. T. *A Picture of a Republican Magistrate of the New School*. New York. 1808. pp. 76, 77.
9. William Pope to Madison. Nov. 9, 1808. Madison MSS. XXXV, 59.
10. *Forty Years of Washington Society*. pp. 58-64.

## CHAPTER XIII

1. Jefferson to Madison. March 17, 1809. Madison MSS. XXXVI, 114.
2. Madison to Jefferson. *Writings*, ed. 1865. II, 449.
3. Quoted in Henry Adams. *History of the U. S.* V, 79.
4. This account follows Henry Adams. *History*, Vol. V, chapter VI.
5. Madison, *Writings*, ed. 1865. II, 474.
6. Madison to Jefferson. Oct. 19, 1810. *Writings*, ed. Hunt. VIII, 109-110.
7. Armstrong to Madison. August 5, 1810. Madison MSS. XLI, 113. This letter was not in the original collection of Madison papers. Henry Adams, not having seen it, expressed surprise at Armstrong's silence, and drew conclusions somewhat unjust to the minister. *History of the U. S.* V, 259-261.
8. For the Florida affair I have followed the account of Julius Pratt in *Expansionists of 1812*.
9. Thomas Hart Benton. *Thirty Years' View*. I, 680. E. Channing. *A History of the United States*. IV, 447.

10. The decisive effect of Foster's disclosures is indicated by a letter from Jefferson to Archibald Stuart, written August 8, 1811. (*Works*, Federal Edition, XI, 210). "This is the first time she has thrown off the mask", he says of England.

William C. Rives wrote to Edward Coles, Madison's private secretary, asking about the effects of "external pressure" in bringing Madison to the point of war. Coles's reply, written January 21, 1856, is printed in *William and Mary Quarterly*, second series, Vol. 7. (1927). pp. 162-165. He says that Madison was "as firmly determined on resistance to English aggression and insult as any of the noisy politicians of the day", and tells the story essentially as I have given it in the text. Doubtless he was motivated by a laudable desire to represent his former friend and employer as a true patriot, of the style of 1856; nevertheless I think his account may be accepted as confirming other evidence that Madison was by no means opposed to war. Probably Madison did not approve of the motives of the War Hawks, but he had been ready to fight ever since the end of 1808. The important fact, as I have tried to show, is that he did not propose to force the country into war, but rather to wait for the people to make up their own minds. Had he been primarily anxious to keep the country out of war, he could easily have accepted England's terms. But this he described as "submission".

11. Madison to Henry Wheaton. Feb. 26 and 27, 1827. *Writings*, ed. Hunt. IX, 272-273.
12. Letter published in the *Worcester Spy*, issue of June 24, 1812.

#### CHAPTER XIV

1. Richard Rush to his father. Quoted in Henry Adams, *History of the U. S.* VI, 229.
2. Madison, *Writings*, ed. Hunt. IX, 278n.
3. Madison to H. Wheaton. *Writings*, ed. Hunt. IX, 274.
4. Madison, *Writings*, ed. 1865. II, 536.
5. *Memoirs and Letters of Dolly Madison*. p. 93.
6. This account of the invasion of Washington is based upon Henry Adams's narrative, supplemented by: *Forty Years of Washington Society*, pp. 98-116; Diary of Mrs. William Thornton, printed in *Records of the Columbia Historical Society*, Washington, D. C. Volume 19; *Memoirs and Letters of Dolly Madison*, Chapter VIII; and Madison's own account, *Writings*, ed. Hunt, VIII, 291-304. The last two were used by Henry Adams.

7. Quoted in Henry Adams, *History*, VIII, 231.
8. Massachusetts Historical Society. Otis MSS. Printed in S. E. Morison. *Harrison Gray Otis*.
9. Madison to C. E. Haynes, Feb. 25, 1831. *Writings*, ed. Hunt. IX, 442-443.
10. Letter in the *New England Palladium*, issue of Jan. 3, 1812.

## CHAPTER XV

1. *Forty Years of Washington Society*. pp. 81-83.
2. This, and other facts in this chapter, are taken from the last chapters of Hunt's *Life of Madison*, and were collected by Hunt from local sources.
3. Madison to N. P. Trist, April, 1827. *Writings*, ed. 1865, III, 576-577. Madison probably met and talked with Owen.
4. To Judge Roane, Sept. 2, 1819. *Writings*, ed. 1865, III, 143-147.
5. To Judge Roane, June 29, 1821. To Jefferson, June 27, 1823. *Writings*, ed. Hunt. IX, 65, 137.
6. *Writings*, ed. 1865. IV, 264. This is a very long letter covering the whole constitutional and economic problem of the tariff as Madison saw it. It was written to one Professor Davis, who had lectured on the subject, but is marked "not sent".
7. Madison to W. T. Barry. Aug. 4, 1822. *Writings*, ed. 1865, III, 276-281; ed. Hunt, IX, 103-109.
8. Madison to Jefferson. Feb. 8, 1825. *Writings*, ed. Hunt. IX, 218-221.
9. *Forty Years of Washington Society*. p. 235.
10. George C. Shattuck, Jr. to his father. Jan. 24, 1835. Massachusetts Historical Society MSS.

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